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Institutional and Regulatory Frameworks of Privatisation and FDI: A
Comparative Study between Egypt and Argentina

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Institutional and Regulatory frameworks of Privatisation and FDI: A comparative study between Egypt and Argentina

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Abstract

This paper aims at investigating the difference between the Egyptian and Argentinean approach to privatisation and FDI and how their different policies, institutions and regulations affected the progress of their respective privatisation programmes and FDI participation.

The analysis indicates that, in Egypt, the legal framework of privatisation did not explicitly incorporate FDI participation. FDI regulations were developed separately from privatisation regulations. As a result, a foreign investor in Egypt is faced with multiple laws and multiple regulating agencies for FDI. Unlike in Argentina, the legal framework of privatisation explicitly incorporated the participation of FDI, and FDI regulations were totally liberalised. This explains why FDI participation in Argentine privatisation during 1989 – 2000 accounted for 63% of privatisation proceeds, while, in Egypt, FDI participation accounted for only 24% of privatisation proceeds during 1993 – 2000.

Keywords: Privatisation, FDI, Egypt, Argentina, Regulations.
JEL Classification: F, O, H

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1. Introduction:

Both Egypt and Argentina are middle-income countries that, like many developing countries, suffered from macroeconomic structural problems such as high inflation rates and high external debt ratios. In the 1980s, due to the crash in oil prices and the reluctance of major international lenders to lend to developing countries amid the foreign debt crisis of the 1980s, the macroeconomic problems in both Egypt and Argentina reached to their peak. Inflation in Argentina, for example, reached to 3000% and external debt as a ratio of GDP reached to 85% in 1989. Similarly, in Egypt, inflation rates reached to 23.86% in 1986, and external debt ratio reached to 128.16% in 1987 (WDI, 2002)².

One of the factors that effected such sever problems was the inefficiency of the large public sector in each country. State owned enterprises (SOEs) were constituting burden on the economies of these countries and significantly contributing to the aggravation of their macroeconomic problems. In Argentina, for example, by the end of 1988, the external debt of the State Owned Enterprises (SOEs) reached to over \$ 11 billion³, while in Egypt, over the period of 1975 – 1989, the Egyptian government received US\$14.98 billion from USAID; out of which US\$ 14.23 billion (i.e. 95%) went to the government, where US\$ 1.2 billion (i.e. around 8%) went directly to the industrial SOEs. The private sector received only 5% of the USAID received during this period (i.e. US\$ 751 million).⁴

As a result, the 1980s witnessed a surge in the application of economic reform and structural adjustment programmes that aimed at addressing these common structural macroeconomic problems in the developing countries. These programmes depended mainly on two policies: Stabilisation policies; as a short-run solution to the inflation and external debt problems, and privatisation policies; as a long-run solution to the structural problems of the economy. This paper focuses on the privatisation policies.

However, while some developing countries went through privatisation programmes fairly quickly and privatised all of their enlisted SOEs within the agreed upon time scale (e.g. Argentina), others progressed slowly and reached to a halt in the execution of their programmes (e.g. Egypt). Moreover, due to domestic capital shortages in the developing countries, in general, the completion of privatisation programmes oftenly required the participation of foreign direct investment (FDI). However, developing countries differed in terms of their reliability on, or welcoming, the participation of FDI in their privatisation programmes. While some (e.g. Argentina) welcomed and explicitly demanded the participation of FDI into their privatisation programmes, others (e.g. Egypt), were a little bit conservative and sometimes reluctance to allow FDI to participate in the privatisation of their SOEs.

In the cases of Egypt and Argentina, this difference was very apparent. Both Egypt and Argentina started their privatisation programmes around the same time (i.e. in 1991 and 1989, respectively). The Egyptian privatisation programme incorporated more SOEs than the Argentine programme (i.e. 314 non-financial SOEs in Egypt compared to 297 SOEs in Argentina). However, within the first five years of their programme, Argentina privatised two third of its SOEs, while Egypt took 10 years to privatise two third of its SOEs. Moreover, by 2000⁵, Argentina received \$44.5 billion in privatisation proceeds,

² See tables 1 and 2 in the appendix.

³ The World Bank (1993), pp. 1-2, and Alexander and Corti (1993), p. 2.

⁴ Aly (1992), p.55.

⁵ By the year 2000, Argentina had finished its privatisation programme. There were few remaining shares that were sold between 2000 and 2003. On the other hand, the programme in Egypt reached to a halt in 2000, then there were one or two sales in 2002.

where 67% of them were FDI, while Egypt received \$4.5 billion in privatisation proceeds, out of which 22% represented FDI. This paper compares between the institutional and regulatory frameworks of privatisation and FDI in Egypt and Argentina during the 1990s and analyse how they may explain the difference in the completion rates of, and FDI participation in, their privatisation programmes. The analysis focuses on the period of 1988 – 2000 as it was the period when privatisation was at its peak in both countries.

The paper develops as follows: section 2 compares between the size and performance of the public sectors in Egypt and Argentina before the start of privatisation. Section 3 presents a brief overview of the privatisation programme in each country. Section 4 outlines the institutional and regulatory frameworks of FDI, while section 5 outlines the institutional and frameworks of privatisation in each country. Section 6 draws some lessons and policy implications from the comparison between Egypt and Argentina. Finally, the conclusion of the paper is presented in section 7.

2. Public Sectors in Egypt and Argentina:

Both the Egyptian and Argentinean economies were dominated by large public sectors for quiet a long time. In Egypt, the economy was transformed from a private, market-oriented economy to a socialist, centrally-planned economy in the 1960s when the government started to nationalise many private companies and established large SOEs (industrial and financial) to provide goods and services. The dominance of the public sector on the Egyptian economy lasted for 30 years. In Argentina, on the other hand, the dominance of the public sector on the economy lasted for 40 years, as nationalisation started in the 1946 (World Bank, 1993).

The Egyptian public sector includes four major institutions: Local government productive enterprises, Service authorities, Economic authorities and Public Enterprises or state-owned enterprises. All four institutions are involved in economic activities; however the last two are the main agents due to their size and contribution to the economy. Economic authorities cover strategic sectors such as Suez Canal, petroleum, utilities, supply, health and social insurance. There are more than 60 economic authorities in Egypt, employing around 3% of the labour force, and produce 20% of GDP. These economic authorities are organised as semi-autonomous corporations (e.g. Egyptian General Petroleum Corporation -EGPC). On the other hand, Public enterprises are involved in all activities (e.g. mining, construction, tourism, food and beverages ...etc). They account for 10% of the GDP and employ around 6% of the labour force.⁶ Public enterprises have constituted larger burden on the government budget than economic authorities. The deficit of non-financial public enterprises, for example, accounted for about 30% of total government deficit in the 1980s, while economic authorities sometimes achieved surplus such as in the early 1980s.⁷ For that reason, in addition to be covering strategic assets such as the Suez Canal, the Egyptian government has not been keen to privatise the economic authorities. Rather, the focus of privatisation was on non-financial public enterprises.

The government controlled all activities of SOEs concerning production, employment, pricing, and obtaining raw materials. Managers of SOEs were directly appointed by the supervised Ministry, and they had little or no power to affect prices, wages, output or employment. Managers' rewards or continuance in their position were not tied up to their performance, rather their position depended on their relationship with the political regime. As such, managers were working to meet whatever political or social objectives

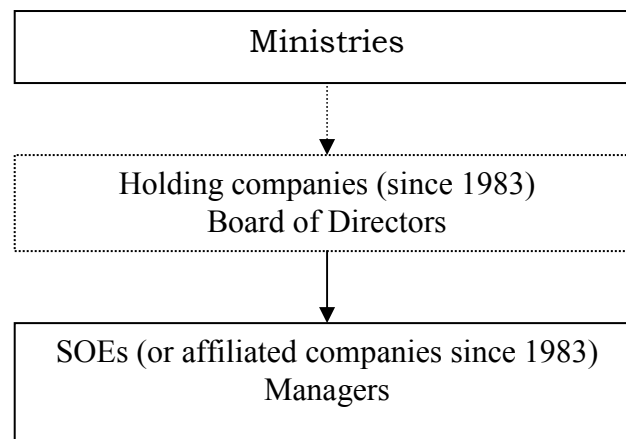
Hence, this paper focuses on the period when privatisation was at its peak in both countries, and that covers the period of 1993- 2000 in Egypt, and 1989 – 2000 in Argentina.

⁶ Business Environment Task Force – BETF (2000), p. 6

⁷ Ott (1991), p. 204.

the government had and they did not have any incentive to improve the performance of their enterprises.⁸ Even when the government attempted to decentralise the decision making process in early 1980s by creating holding companies (HCs)⁹ that were to be responsible for managing SOEs, the performance and organisational behaviour of the SOEs did not change. SOEs became affiliated companies to holding companies. The board of directors of the HC are responsible for appointing the managers of SOEs. However, the board of directors of the HC itself is appointed by the government, and sometimes it is headed by the Minister of the supervising ministry. The central government was still in control of the activities of the SOEs via the HCs (Ott, 1991; and Sherif and Soos, 1992). One may argue that rather than decentralising and liberalising the decision-making process in the SOEs, this has led to more bureaucracy in the decision-making process.

Figure 1: The hierarchy of control of the public sector in Egypt



The government used its pricing policy to grant implicit subsidies to the public and to the SOEs and to create favourable position for SOEs over private enterprises. This was done via classifying SOEs output into ‘essential’ and ‘non-essential’ products. The prices of essential products were kept lower than the cost or the market value to make sure that they are affordable by the wide range of the public. Price differential was allowed for non-essential products, where public sector users are charged lower prices than private sector users (Ott, 1991).

The favourable position of the SOEs was reinforced by other policies and laws such as trade policies, exchange rate policies, and labour laws. In the 1960s, SOEs were totally protected with import-substitution policies and the government objective was to achieve self-sufficiency and serve the domestic market. Import and Export activities were totally dominated by SOEs, while the private sector was to purchase its needs from the SOEs. During 1970s – early 1980s trade was partially liberalised; tariffs on intermediate goods that are not produced domestically and on capital goods were lowered, while tariff on consumer or luxury goods remained high. The private sector was allowed to engage in direct import and export, but with some restrictions (i.e. obtaining a license from the government).

The public sector dominated the economic activities in Egypt for long time. During 1974 – 1986, the public sector accounted for 40% of GDP and controlled over 70% of industrial output while the private sector controlled only 23% to 33% of industrial output.¹⁰ Employment figures are another indicator of the growing size of the public sector. The

⁸ See Ott (1991) and Sherif and Soos (1992) for more details on the economic performance of public enterprises.

⁹ Six holding companies were created by Law no. 79 for 1983. They were to act as a coordinating body between SOEs and the 6 supervising ministries at the time (i.e. Ministry of Industry, Ministry of Supply, Ministry of Defence, Ministry of Housing, Ministry of Health, and Ministry of Economy) (Ott, 1991, p. 199).

¹⁰ Ott (1991); Aly (1992); Tesche and Tohamy (1994); and Ayubi (1995).

percentage of population employed by the public sector grew from 2.2% in 1952 to 3.8% in 1970. By mid-1980s, 10% of the population were employed by the public sector; which represents 35% of the labour force.¹¹

The protectionist policies, in addition to managing the SOEs based on socio-political rather than economic criteria, adversely affected the performance of the public enterprises. SOEs were incurring losses and their deficit almost doubled from 3.9% to 8.4% of GDP between 1973 to 1983 (Ott, 1991, p.204). Financing this deficit is born mainly by the government budget. The fiscal burden of SOEs on the budget of the central government in the second half of the 1970s was above 30% of GDP¹². The second source of financing the SOEs deficit was borrowing from domestic banks. During 1974 – 1985, inflation rates were higher than nominal interest rates, which led to negative effective interest rates. This encouraged SOEs to borrow excessively (Sherif and Soos, 1992) and led to an increase in public debt¹³. The ratio of public debt to GDP increased from approximately 17% in 1974 to 84% in 1985.¹⁴

SOEs had also access to foreign resources either via borrowing (in domestic currency) from governmental funds that were initially obtained from foreign loans, or via borrowing directly from foreign resources in the form of suppliers' or buyers' credits. In the first case, servicing the foreign debt is the responsibility of the central government, while in the later case; it is the responsibility of the SOE. However, due to poor monitoring or regulations from the part of the central government on SOEs direct borrowing, the debt-servicing burden of many SOEs' direct foreign borrowing was shifted to the central government.¹⁵ Ultimately, the inefficient performance of SOEs had its toll on external debt, where external debt ratio reached to above 120% of GDP by mid-1980s¹⁶.

In Argentina, on the other hand, prior to the 1940s, the contribution of SOEs in the Argentine economy was of little significance, except in the petroleum sector as the petroleum state-owned enterprise; Yacimientos Petroliferos Fiscales (YPF) dominated that sector since the 1920s. The pressure for nationalisation started in the 1940s; almost two decades before nationalisation took place in Egypt. In Mid-1940s, the government of President Juan Péron started in nationalising foreign-owned enterprises and establishing new SOEs using the wealth that have been accumulated during the World War II.

Argentine SOEs are mostly concentrated in the infrastructure sector (i.e. telecommunication, electricity, water, and transport), in the primary sector (i.e. petroleum and natural gas), and some are in the manufacturing sector (e.g. defence industries, petrochemicals, and steel).¹⁷ Some SOEs are owned by the national government, while others are owned by provincial and municipal authorities. By 1989, there were 260 in the nonfinancial sector and 37 in the financial sector (i.e. totalling 297 SOEs in Argentina). The national government owned 55% of the SOEs in the nonfinancial sector.¹⁸

SOEs in Argentina faced the usual problems of over hiring, poor performance and contribution to output, and financial and operational inefficiencies. In 1989, the operating deficit of the largest 13 SOEs (excluding defence industries) was around \$ 4 billion¹⁹ (i.e. around 5% of current GDP). By the first half of 1990, this operating deficit

¹¹ Aly (1992), p.55.

¹² Based on World Bank data provided in Ott (1991).

¹³ Public debt is defined by the WDI (2002) as "long-term external obligations of public debtors, including the national government, political subdivisions (or an agency of either), and autonomous public bodies"

¹⁴ Calculated from WDI (2002).

¹⁵ Sherif and Soos (1992), pp. 66 - 67.

¹⁶ See table 1 in the appendix.

¹⁷ Gerchunoff and Coloma (1993), p. 251.

¹⁸ Alexander and Corti (1993), p. 1; Shaikh et al. (1996), p. 22.

¹⁹ Saba and Manzetti (1997), p.355, and Pastor Jr. and Wise (1999), p. 487.

has increased by 35%. Four SOEs – YPF, the telephone company, the gas company and the railways, accounted for half of these losses. Moreover, by the end of 1988, the external debt of the SOEs reached to over \$ 11 billion.²⁰ In terms of the size of public sector employment, total employees working in the SOEs were approximately 310,000 employees in 1990²¹. This represents about 2.5% of the labour force or 1% of the population²². The poor performance of SOEs is reflected by the low share of their output in GDP and investment. In the late 1980s, the share of SOEs output in GDP was around 7% (which is less than the world average of 9.4%) while the share of SOEs output in GDI was around 21% (which is less than the developing countries average of 27%)²³.

The comparison between the Egyptian and Argentinean public sectors indicates that the former is larger in terms of size, contribution to output and employment; implying that SOEs in Egypt were more involved in the economy than those in Argentina. Furthermore, the financial performance of SOEs in Egypt was worse than those in Argentina. Such inefficiencies in both countries constituted large burdens on their government budgets and were one of the motives to engage in privatisation and restructuring the economy in both countries.

3. Privatisation programmes in Egypt and Argentina:

Both Egypt and Argentina started their privatisation programmes in response to the inefficiencies of their SOEs, and both programmes started with difficult macroeconomic conditions. Egypt was suffering more from the external debt burden (i.e. In 1989, external debt ratio to GDP was 111.74% in Egypt, as opposed to 85.15% in Argentine), while Argentina was suffering more from hyperinflation (i.e. In 1989, inflation in Argentina was over 3000%, as opposed to 21.26% in Egypt).²⁴

Officially, privatisation started in Egypt in 1991 when the government signed a letter of intent with the IMF in April 1991, by which Egypt agreed to abide by the recommended policies of the IMF's Economic Reform and Structural Adjustment Programme (ERSAP). However, the pace of privatisation was very slow at the beginning of the program. The first sale of SOEs under law 203 of 1991²⁵ was recorded in 1993. The Middle East conflict at that time (i.e. coalition against Iraq), in addition to foreign aids and debt relieves given to Egypt for its participation in coalition, reduced the pressure on the government to privatise and hence slow-started privatisation.²⁶ In addition, the government's concern about the social effects of privatisation, given the size of labour employed by SOEs in Egypt, had an effect on the pace of privatisation, as the government had to take measures of reforming and preparing SOEs for sale.²⁷ The government took two years (i.e. 1991 – 1993) in preparing public opinion for, and finalising the legal framework of, privatisation.

The popular technique of privatisation in Egypt during 1993 – 2000 was the sale of majority shares in the stock market, as indicated by table 4 in the appendix. In 1995, for example, all reported 8 transactions by the IFC were in the form of sale in the stock market.²⁸ Selling to Anchor investors, especially to foreign anchor investors (i.e. FDI), was

²⁰ The World Bank (1993), pp. 1-2, and Alexander and Corti (1993), p. 2.

²¹ The World Bank (1993) indicates that total reduction in employment due to privatisation in early 1990s is "250,000 employee, leaving no more than about 60,000 public enterprise employees ..." (WB, 1993, p. 15).

²² Calculations are based on total labour and total population figures in 1990 obtained from the WDI (2002).

²³ Gerchunoff and Coloma (1993), pp. 251-2, and Pastor Jr. and Wise (1999), p. 487. See also table 3 in the appendix

²⁴ The World Bank classifies Argentina as severely indebted, while Egypt is classified as highly indebted [WDI (2002) CD-ROM].

²⁵ Law 203 of 1991 is the regulating law for privatisation in Egypt. More details are in section 5.

²⁶ Sullivan (1992).

²⁷ Privatisation Coordination Support Unit – PCSU (2001).

²⁸ The IFC did not report any other privatisation technique in 1995. However, according to data obtained from IDSC website (www.idsc.gov.eg), in 1995 there were 3 companies sold to anchor investor. It is not clear, though, whether these anchor investors are local or foreign investors.

limited, with the majority of sales taking place in 1999. Most of FDI participation in the divestiture of SOEs was in the Manufacturing sector (Table 5). However, the government allowed FDI in the infrastructure sector via Build-Operate-Transfer (BOT) and Build-Own- Operate- Transfer (BOOT) projects.²⁹ These projects are regulated by separate laws; Law 229 of 1996 and law 3 of 1997, than that that regulates the privatisation of SOEs.

The Egyptian privatisation programme has passed through three phases between 1993–2000:³⁰

- Phase One: From 1993 to 1995, the pace of privatisation was slow. Total number of companies sold during this period was 31 companies, with total proceeds of US\$ 772.36 million.
- Phase Two: From 1996 to 1998, the pace of privatisation accelerated. Total number of companies sold during this period was 85 companies, with total proceeds of US\$ 2543.8 million.
- Phase Three: From 1999 to 2000, the pace of privatisation slowed down again. Total number of companies sold during this period was 56 companies, with total proceeds of US\$ 1164.88 million.

In terms of the sectoral distribution of privatisation in Egypt (figures 2 and 3), the manufacturing sector accounts for more than 50% of the privatisation proceeds and the number of transactions. Privatisation in the infrastructure and financial (especially Banking and Insurance) sectors is still limited³¹. Similarly, in the infrastructure sector, the government is reluctant to sell its SOEs, however, it has been allowing private sector to engage in new investments. For example, in the Telecommunication sector, Mobile networks are provided by two private companies; Mobinil and Vodafone (formerly known as Click). However, the competition within the Mobile network market is restricted³². On the other hand, Landline networks are totally controlled by SOE; Telecom Egypt. There were plans to offer 20% of its share in the stock market in late 2000; however, these plans were postponed.³³

By June 2001, the total number of companies privatised was 180 companies (Table 4), that is almost two-third of the companies offered under law 203 of 1991. The slow down of privatisation in the late 1990s can be attributed to the fact that the government has been focusing on selling profitable SOEs, and now it is left with loss-making or unprofitable SOEs. It was recommended that remaining companies, especially the loss-makers, should be restructured in order to increase their performance and then offered for sale to anchor investors³⁴, with more focus on attracting FDI.³⁵ However, the programme reached to a halt and almost froze after 2001. In 2002, few privatisation transactions took place in the Banking sector, until the programme reached another halt in 2005. The government is now thinking of distributing free shares to citizens in strategic SOEs in the industries of iron, steel, cement, transportation and tourism.³⁶ This proposed plan of the Egyptian government seems to be aiming to regain people's support of privatisation and, in particular, of the government. However, voucher privatisation is

²⁹ The government regards these operations as part of their privatisation program, as it opens a sector that has been dominated by SOEs to private participation.

³⁰ 'Number of companies' values are based on PCSU (2001), while 'privatisation proceeds' values are based on IFC privatisation database.

³¹ Privatising the four public sector banks (Bank Misr, Bank of Cairo, Bank of Alexandria, and the National Bank of Egypt, which account for 60% of banking activity in Egypt (Tesché and Tohamy (1994), p. 11.), was not allowed. However, by 1999/2000, public banks were allowed to sell their shares in joint venture banks such as Cairo Barclays Bank.

³² There have been talks of establishing a third Mobile Network Company for long time; however, no steps were taken until 2006. In 2006, the Egyptian Telecommunication Ministry finally granted a license to the Emirates Company 'Etaslat'. (Egyptian Chronicles, 2007)

³³ PCSU (2001), p. 61.

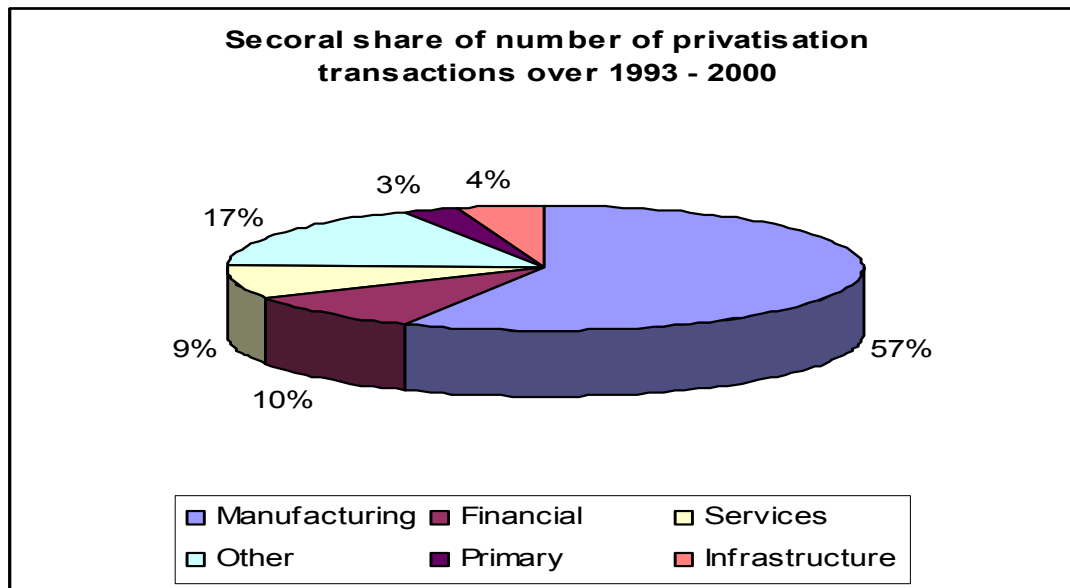
³⁴ See figure 8 below.

³⁵ BETF (2000).

³⁶ Fraser, C. (2008); "Egypt to distribute free shares", *BBC News*. http://news.bbc.co.uk/2/hi/middle_east/7720677.stm [Accessed on 18/11/2008]

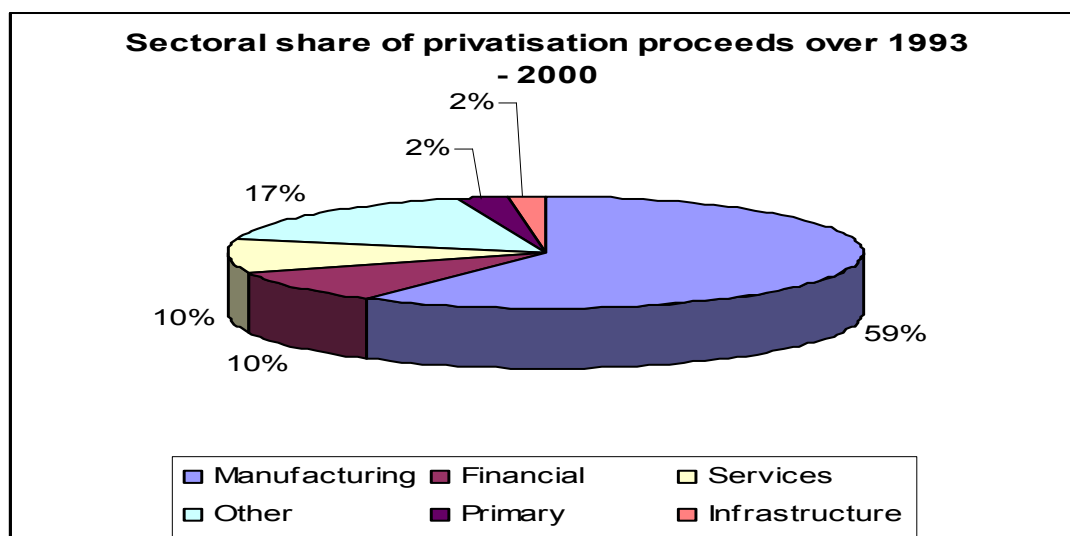
not a method that allows FDI participation. This, again, casts further doubt on the government's commitment to allow FDI to participate in the privatisation programme.

Figure 2: Sectoral share of privatisation transactions in Egypt (1993 – 2000)



Source: calculated from IFC privatisation database.

Figure 3: Sectoral share of privatisation proceeds in Egypt (1993 – 2000)



Source: Calculated from IFC privatisation database.

The Argentine government, unlike that of Egypt, started with privatising its largest and most difficult SOEs (e.g. ENTel and the airline company), most of which were concentrated in the infrastructure sector. The list of SOEs to be privatised covered telecommunications, airline, petroleum, natural gas, waterworks, electricity, railways, highways, shipping, hotel, insurance, and petrochemicals³⁷.

The main privatisation methods applied were the sale of shares in the new companies (e.g. the telecommunication company- ENTel) or via providing concession rights (e.g. highways, and railroads) for up to 99 years to operate these new companies³⁸. The sale of shares was usually partial; at least 51% was sold to private companies, 39% was kept by the government for later sale via public offering in the stock market once the privatised

³⁷ See the appendix for the full list of SOEs included in the Argentine privatisation programme.

³⁸ The World Bank (1993), p. 5

company operates successfully, and 10% to the employees.³⁹ In some cases, the government opted for selling more than 51% of the shares to private companies, such as in the privatisation of ENTEL where 60% of the shares were sold, 10% to the employees, and the 30% maintained by the government were later offered in the stock market once the operations of the newly privatised company proves successful and the stock market had become more developed.⁴⁰ Table 6 in the appendix lists some of the major privatisations in Argentina that have taken place between 1989-2000.

At the start of its privatisation programme, the Argentine government wanted to establish its commitment to privatisation and economic reform to the private investors; given its previous history of failed privatisation and stabilisation programmes⁴¹. Hence, a speedy sale of SOEs, and obtaining short-term results, was an important requirement to keep the interest of the investors, and the support of the public.⁴²

The Argentine programme started with 297 SOEs in 1989.⁴³ By 1993, the Argentine government had privatised the majority of its SOEs.⁴⁴ During 1989 – 1993, controlling interests in 57 SOEs were sold, concessions for operating 27 public service companies were granted, 9 joint venture agreements between YPF and private investors for primary oil fields were concluded, and 86 concession agreements for the exploitation of secondary oil fields were granted. The gross revenue of the program until 1993 amounted to \$ 22 billion (\$ 9.1 billion in cash and \$ 13 billion in Debt papers).⁴⁵ By 2000, total proceeds of the Argentine privatisation programme amounted to \$44.581 billion⁴⁶.

The sectoral distribution of Argentine privatisation is different than that of the Egyptian privatisation. Argentina started by privatising the large, and most difficult, public utility SOEs that were concentrated in the infrastructure (e.g. telecommunication and electricity) and petroleum sector. These sectors usually yield the highest proceeds (Sader, 1993). In Egypt, on the other hand, the utilities and petroleum are organised as economic authorities, which were not included in the privatisation programme. Rather, the Egyptian programme included 314 non-financial companies that were concentrated in sectors such as manufacturing, construction, tourism, and food.

Figure 4 indicates that in Argentina, in terms of the number of privatisations over 1988-2000, infrastructure sector accounted for 63% of total privatisation, followed by the energy sector, which accounted for 20% of total privatisations. In Egypt, on the other hand, over 1993-2000, the infrastructure sector accounted for only 4% of total privatisations, while the manufacturing sector accounted for the majority of privatisations; 57% (figure 2).

In terms of privatisation proceeds, the majority of the proceeds were generated by infrastructure and energy privatisation over 1988-2000. Figure 5, indicates that 50% of total proceeds are generated from the energy sector⁴⁷, while 39% are generated from the infrastructure sector. In Egypt, on the other hand, infrastructure privatisation accounted for only 2%, while the manufacturing privatisation accounted for the majority; 59%, of total proceeds during 1993-2000 (figure 3).

³⁹ The World Bank (1993), p. 6-7, and Harteneck and McMahon (1996), p. 75.

⁴⁰ Gerchunoff and Coloma (1993), p. 259, and p. 297.

⁴¹ For more details on previous privatisation attempts and stabilisation policies prior to 1989 in Argentina, see Epstein (1987).

⁴² World Bank (1993)

⁴³ Alexander and Corti (1993), p.1

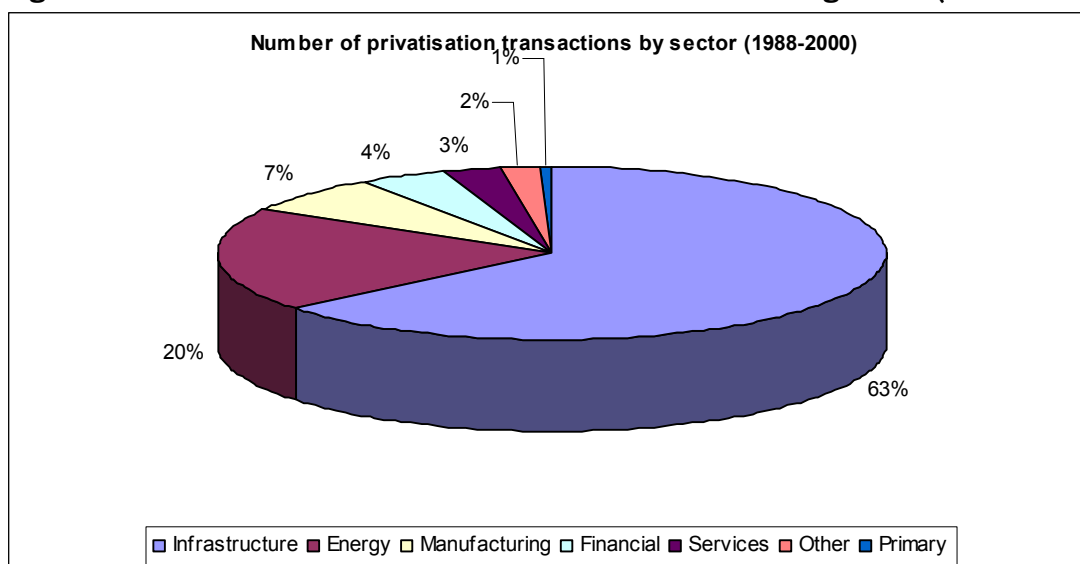
⁴⁴ The World Bank (1993), p. vi and p.24.

⁴⁵ Harteneck and McMahon (1996), p. 67 and p. 71.

⁴⁶ Calculated from IFC privatisation database.

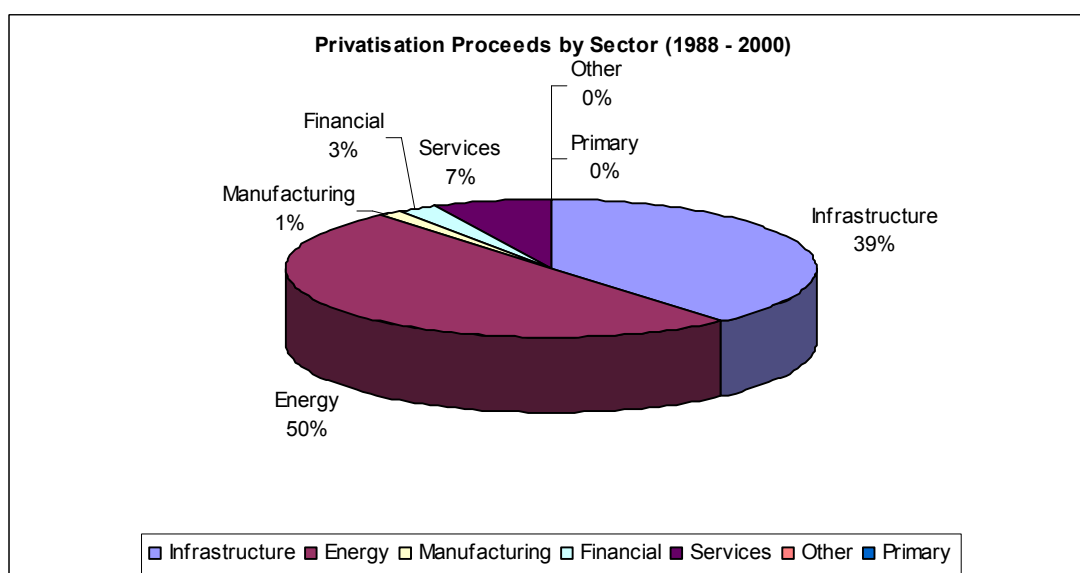
⁴⁷ The IFC classifies the petroleum sector under the Energy sector.

Figure 4: Sectoral share of Privatisation Transactions in Argentina (1988-2000)



Source: IFC privatisation database.

Figure 5: Sectoral share of Privatisation Proceeds in Argentina (1988-2000)



Source: IFC privatisation Database.

The above comparison indicates that the Egyptian privatisation programme is larger than that of Argentina in terms of the number of companies included in the programme. However, the composition of the privatisation programme in each country in terms of the type of SOEs included was different. Egypt offered 314 non-financial SOEs- most of which were in the manufacturing sector- with 1.1 million workers⁴⁸, while Argentina offered 260 companies in the non financial sector- most of which were in the infrastructure sector- and 37 companies in the financial sector, with 310,000 workers.

The Argentine programme, however, is larger than the Egyptian programme in terms of privatisation proceeds received. By 2000, total proceeds of the Argentine programme were \$ 44.581 billion, while in Egypt total proceeds amounted to \$ 4.481 billion⁴⁹. Within the first five years of the start of the programme in Argentina (i.e. 1989-1993), the government had privatised the majority of its SOEs. During this period, 106 transactions were recorded, which accounted for 2/3 of total transactions recorded over 1988-2000

⁴⁸ Brindle (1993); and Ayubi (1994).

⁴⁹ Calculated from the IFC privatisation database in constant prices.

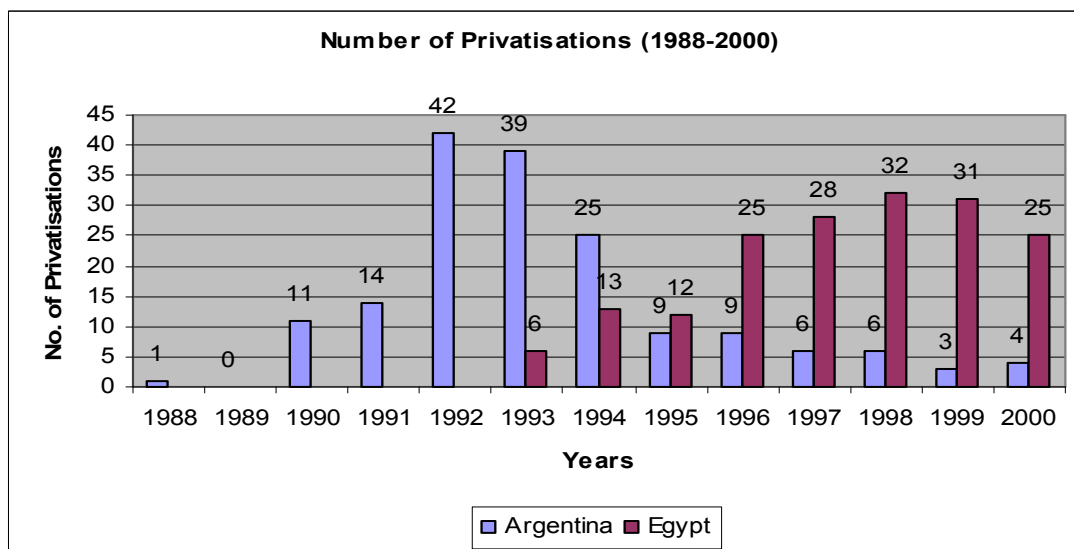
(figure 7). Revenue generated within the first five years amounted to \$ 22 billion. While in Egypt, within the first five years of the programme (i.e. 1991-1995), only 31 companies (out of 314) were sold (figure 7) with \$ 772.36 million.⁵⁰ While it only took five years for the Argentine government to privatise 2/3 of its SOEs, it took Egypt double the time to privatise 2/3 of its SOEs⁵¹.

Figure 6: Privatisation Proceeds in Argentina and Egypt



Source: IFC Privatisation Database.

Figure 7: Privatisation Transactions in Argentina and Egypt



Source: IFC Privatisation Database

Given the shortage of domestic capital in the developing countries, FDI participation in privatisation was deemed essential to the completion of these programmes. When comparing between Egypt and Argentina in terms of the degree of FDI participation in their privatisations, it is found that Argentina received far more FDI than Egypt. While total foreign investment⁵² in Argentina's privatisation during 1988-2000 was \$ 15 billion⁵³, it was \$ 0.920 billion in Egypt⁵⁴. When Debt Equity Swaps (DES) is included,

⁵⁰ PCSU (2001)

⁵¹ PCSU (2001) indicates that during 1991-2001, Egypt had privatised 180 SOEs, which accounts for 2/3 of its programme.

⁵² measured by foreign exchange earned on privatisation transaction.

⁵³ Calculated from the World Bank Privatisation Database.

⁵⁴ See table 5 in the appendix. Calculations are from the IFC privatisation database.

FDI in Argentina's privatisation amounted to \$27.887 billion; which represents 62.6% of total proceeds. In Egypt, FDI participation in the privatisation amounted to \$1.090 billion or 24.3% of total proceeds.⁵⁵ The following two sections investigate whether the differences in institutions and regulations of privatisation and FDI in these two countries explain the differences in privatisation accomplishments and FDI participation.

4. Institutional and Regulatory Frameworks of FDI in Egypt and Argentina:

Before examining the institutional and regulatory frameworks of privatisation, it is worth examining the institutional and regulatory frameworks of investment in Egypt and Argentina, given that the development of these frameworks took separate paths, especially in the case of Egypt. In Argentina, total liberalisation of FDI regulations was concurrent to the economic reform and structural adjustment of the economy. So, when the government was developing its legal and regulatory framework of privatisation, it took into account the need for FDI participation and hence their laws were co-ordinated and their process was relatively transparent to the investor when compared to that in Egypt, as will be discussed later. In Egypt, on the other hand, the process of liberalising private investment, and FDI in particular, was gradual and started long time before the government engaged in privatisation. Table 7 in the appendix presents an overview and comparison of the investment laws in Egypt.

The liberalisation of private investment in Egypt started in the 1970s. The commitment of the government to attract and encourage private investment (i.e. domestic, Arab, and or foreign) was captured by the enactment of *Law 43 in 1974*, which was later amended by *Law 32 of 1977*. The provisions of this law regulated the activities of foreign direct investment (both Arab and non-Arab investment) and the establishment of free zone areas in Egypt. Also, under this law public enterprises could enter in joint ventures with foreign investors, and the created joint ventures were considered as part of the private sector. Thus, law 43 is regarded by some to be the first attempt to allow the public sector to privatise its assets.⁵⁶ Law 43 of 1974, and its amendments in law 32 of 1977, included several incentives to foreign investors in terms of its sectoral coverage, foreign ownership and tax incentives. In addition, it included provisions that guarantee against nationalisation and expropriation. However, it contained some restrictions on capital repatriation, and the extent of foreign ownership. In addition, joint ventures between public enterprises and private investors, though were considered part of the private sector, were still restricted in terms of their ability to set prices and lay off workers⁵⁷. In other words, some public sector practices were still being applied in these private sector companies. Though law 43 was directed to encourage private investment in general, the political inclination was to give more advantages to Arab investment.⁵⁸

In 1981, slightly more liberalisation of private investment regulations was incorporated in *Law 159 of 1981* (also known as the 'Companies law'). The provisions of this law apply to both local and foreign private investors. The law regulates the rules and procedures of setting up private companies and it includes similar guarantees against nationalisation and expropriation, provisions for capital repatriation, and more tax incentives. However, it has also several restrictions such as minimum requirements for employment of Egyptian workers and their wages. In addition, though foreigners may have 100% ownership of their projects, they are not allowed to own the land on which their projects are built. The implementation of this law is supervised by the General Organisation for

⁵⁵ Calculations are based on current prices from the World Bank privatisation database.

⁵⁶ Pripstein Posusney (1992), p.92.

⁵⁷ Ott (1991), p. 197.

⁵⁸ Pripstein Posusney (1992), p. 83.

Industrialisation (GOFI). Some still regard the provisions of law 159 to be in favour of Arab investment over non-Arab investment.⁵⁹

In 1989, the Egyptian government passed a 'unified investment law'; *Law 230 of 1989*, by which law 43 of 1974 was cancelled and its incentives were combined with the incentives provided by the 'new communities' law (law 59 of 1977)⁶⁰. The provisions of this law are directed to both local and foreign investors, and it aims at encouraging private investment in new communities and industrial zones by giving more incentives to projects undertaken in these areas than those built in major cities or the old valley⁶¹. Among the new incentives provided by this law is the freedom of private companies to set their own prices. Also, the law provided for reducing the time it takes the investment authority (GOFI) to give preliminary approvals on new projects to two weeks. However, the law also provided discretionary power to the prime minister and the minister of industry that allows them to interfere in a company's pricing and profit policies, and required that companies allocate at least 10% of the profits to workers.⁶²

In 1997, more privileges to foreign investors were provided under *Law 8 of 1997* (the investment law). The most distinguished feature of this law is that the law explicitly states that foreign investment is to be treated as the same as national investment, and in this sense, foreign investors receive equal incentives as local investors. The investment law of 1997 overcome many of the restrictions imposed by previous laws. There are no restrictions on foreign ownership of projects or land (except agriculture land), no restrictions on capital repatriation, and no minimum requirements regarding Egyptian employment or wages. The law also provided 16 activities in which any new investment is guaranteed an automatic approval and registration of the new company will not take more than one week⁶³. The implementing authority is the General Authority for Foreign Investment and Free Trade Zones (GAFI).

Any other investment activity that is not covered by the investment law no. 8 of 1997 will be automatically subject to law 159 of 1981 and its restrictions. Thus, it is more beneficial for foreign investors to invest in law 8 activities and benefit from its provisions, and the majority of foreign companies choose to register under this law⁶⁴. These two laws, however, are not the only laws that regulate FDI in Egypt. FDI in the petroleum sector is regulated by concession agreements between the investors and the Egyptian General Petroleum Corporation (EGPC). Foreign investment in the local insurance market is regulated by Law 91 of 1995. Build-Operate-Transfer projects for highways and airports are regulated by law 229 of 1996 and law 3 of 1997. However, the *companies law* and the *investment laws*, and their respective regulatory bodies; *GOFI* and *GAFI*, are considered the main laws that regulates the majority of FDI projects in Egypt.

Although the investment authority announced that preliminary approvals for potential investment projects under law 159 of 1981 (i.e. the companies law) would be issued within two weeks from submission of the application, in reality, private investors had to go through a lot of bureaucracy. The private investor must submit a detailed feasibility study to two institutions: the Ministry of Economy and the GOFI; where each institution formulates a committee to assess the application. The committee of the Ministry of Economy includes representatives from every key government organisation and holding companies. The interest of this committee is to ensure that the proposed activity of the new company is not already covered by existing production (mainly by SOEs). A

⁵⁹ Ott (1991), p. 190.

⁶⁰ The 'new communities' law is the law regulating the establishment of new communities and industrial cities such as Sadat city and 6th of October city.

⁶¹ 'Old Valley' refers to cities situated around the Nile Valley such as Cairo and Giza.

⁶² Sherif and Soos (1992), p. 69.

⁶³ See table 7 in the appendix for details of these 16 investment activities.

⁶⁴ UNCTAD (1999a), p. 20.

unanimous approval by all members is required if the Ministry of Economy is to approve the project. On the other hand, GOFI committee is formulated of 14 members; each of them has a separate set of guidelines upon which the established of the company is approved or disapproved (Sherif and Soos, 1992, p. 70). With such complicated procedures, many obstacles can prevent a new private company to be established under this law. Disapproval from one committee member of the Ministry of Economy is enough to stop a private company from being established. As such, high degree of corruption, in addition to lack of transparency, exists in Egypt.⁶⁵

On the other hand, FDI in the 16 activities listed by the investment law 8 of 1997 (i.e. the investment law) are guaranteed automatic approval by the designated regulatory agency; GAFI. The private investor is not required to submit detailed feasibility studies; only a two-page notification form with main information about the project is sufficient to obtain an automatic approval. In addition, the registration of the company with GAFI is completed within one week of the submission (UNCTAD, 1999a, p. 23). In addition, companies established under law 8 of 1997 enjoy some provisions that are not provided by law 159 of 1981; such as no restrictions on foreign ownership of land and/or property of the company, no restrictions of foreign equity, no restrictions of capital repatriation, no minimum requirements regarding employment, wages, and distribution of profits, and no control on pricing policies.

A company that is established under the *investment law*, however, may still be required to deal with GOFI in later stages of establishment as seen in figure 8. Hence, even though, according to a survey undertaken by the UNCTAD and the Economic Research Forum (ERF) in Egypt, law 8 of 1997 is seen by executives of TNC affiliates as “a drastic improvement of the business climate”⁶⁶, FDI in Egypt still faces some obstacles, such as number of other governmental agencies’ authorisations that is required to establish a business (e.g. buying land, building permits, installing utilities ... etc.)

Another major obstacle to FDI in Egypt is the complication of the tax system and the way it is implemented. In addition, any tax disputes take years till they get resolved due to the poor quality of the judicial system in Egypt.⁶⁷ Figure 9 depicts the main obstacles to FDI inflows to Egypt that were identified by the UNCTAD. According to the UNCTAD (1999a), Egyptian business climate still have room for improvement, as 13 out of 16 factors have an average score above three.

In Argentina, on the other hand, FDI has existed since the 1880s; mainly in the infrastructure sector. Telecommunications were provided by a US-based company, while French and British companies dominated the railroad services.⁶⁸ However, the levels of FDI remained insignificant until the 1990s (Urbiztondo, 1998). This is due to the prevailing hostile and protectionist policies that emerged after the World War II, mainly 1946, when the government started in nationalisation and establishing its public sector (World Bank, 1993). FDI inflows to Argentina, however, increased sharply in the 1990s. This increase was partly attributed to the launch of the privatisation programme in Argentina, and to the deregulations undertaken in 1991 (Rojo and Hoberman, 1994).

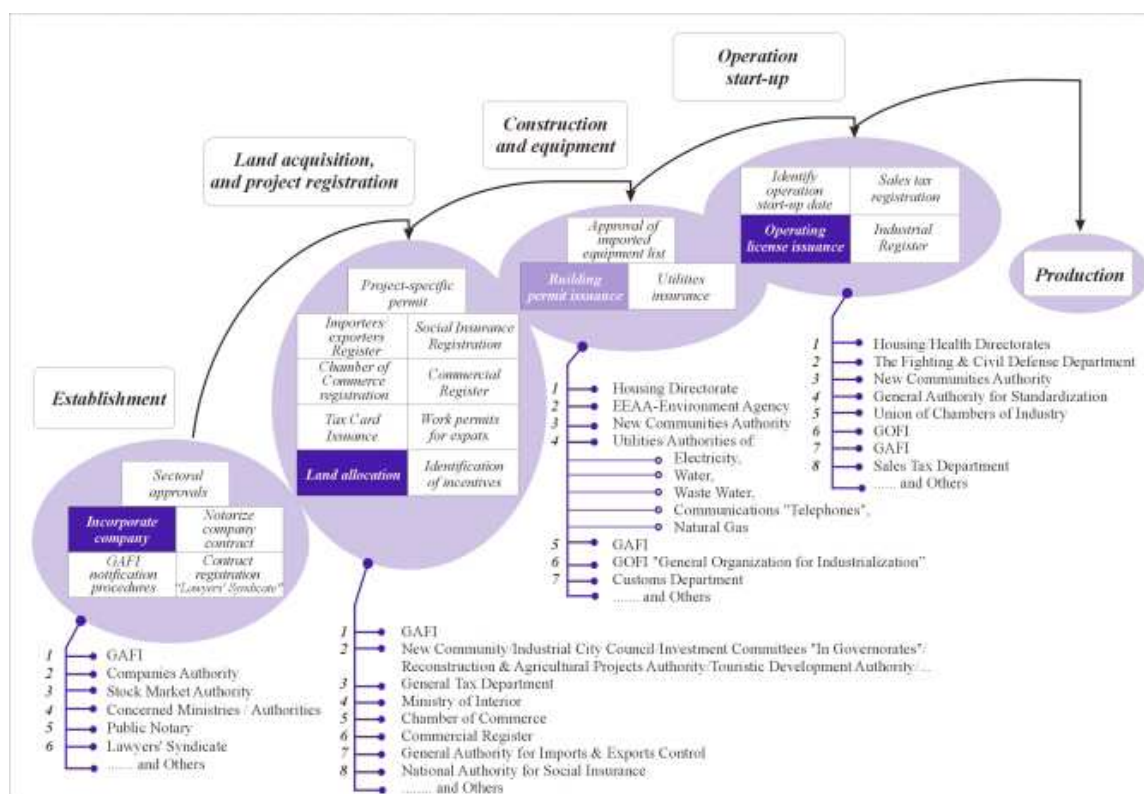
⁶⁵ According to a study carried out by the Information and Decision Support Centre of the Cabinet, the Transparency index for Egypt is low (i.e. 4.9) compared to the transparency indices of other countries such as Turkey, Israel, and Jordan that are more than 5 [IDSC, 2004b, p.22]. Furthermore, according to transparency international’s corruption perception index (CPI), corruption in Egypt, though has been decreasing over the years, is still considered relatively high (1998 CPI score of 2.9) compared to other countries in the Middle East and North Africa (MENA) such as Tunisia (1998 CPI score of 5) [Transparency International Website: www.transparency.org]. The lower the score the more corruption is perceived. The maximum score is 10 and it reflects no corruption perceived.]

⁶⁶ UNCTAD (1999a), p. 19.

⁶⁷ The Egyptian Judicial system is very slow; court cases can take up to 10 years, and they are subject to automatic appeal (UNCTAD, 1999a).

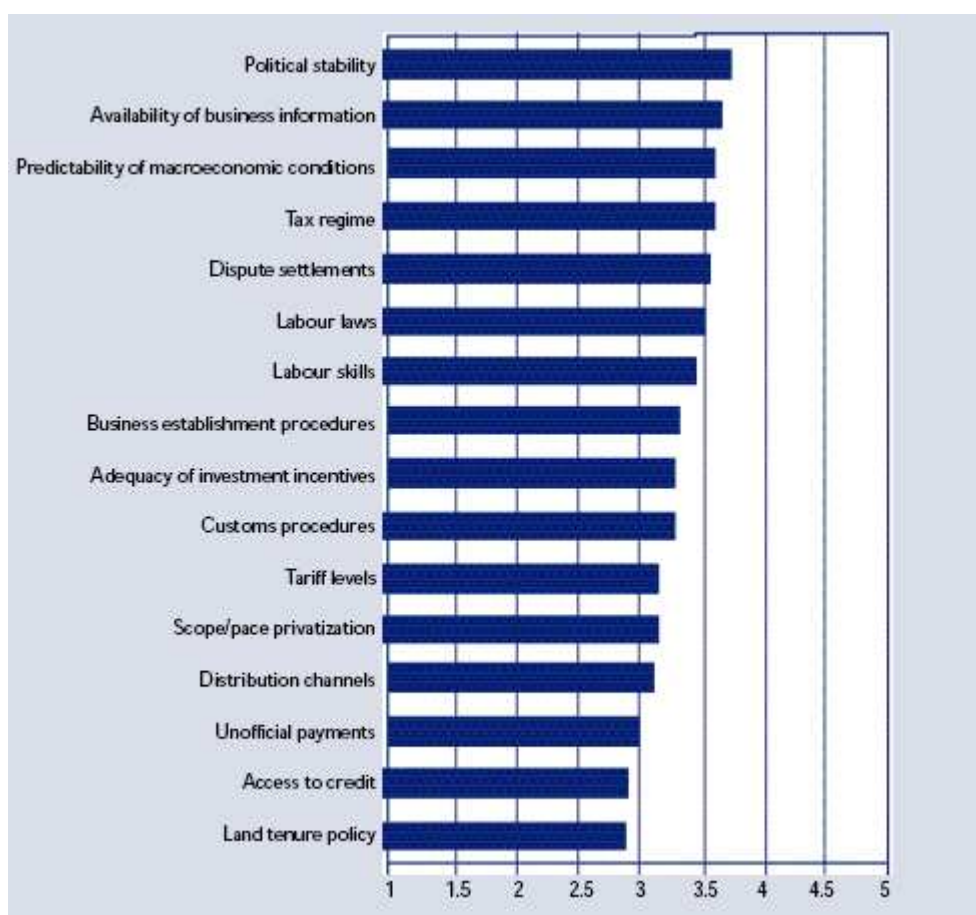
⁶⁸ Gerchunoff and Coloma (1993), The World Bank (1993).

Figure 8: Business Establishment in Egypt in 1998



Source: UNCTAD (1999a), p. 43.

Figure 9: FDI obstacles in Egypt



Source: UNCTAD (1999a), p. 24, based on a survey undertaken by UNCTAD/ERF in 1998.

Note: The higher the score, the stronger the obstacle.

Prior to 1991, FDI was prohibited to participate in 'strategic sectors' such as defence, telecommunications, oil, mining, electricity, gas, etc.⁶⁹ Foreign investors were required to register in the National Registry of Foreign Investment, and in cases where the investment exceeded certain amounts, permission from the Executive Branch or the Ministry of Economy was required. In addition, there was a waiting period of 3 years before any repatriation of profits can take place. Even then, a prior permission was needed to repatriate the profits. The Central Bank had to be notified of any loans requested by foreigners from the local market⁷⁰ In the 1980s, the Radical government managed to partially liberate FDI in the Petroleum sector. In 1985, the 'Houston Plan' allowed foreign companies- via concessions- the exploitation of Argentina's secondary areas. (WIR, 1992, p. 27)

In 1991, the reform of the Foreign Investment Law abolished all the above restrictions on, and further liberalised, FDI:⁷¹

- Foreign investors are no longer required to register in the National Registry of Foreign Investment. Registration is optional and for statistical purposes only.
- There is no waiting period for repatriation of profits nor is permission required to engage in such repatriation. In addition, taxes on repatriated profits are eliminated.
- Investors are granted full access to local credit markets and the requirement of notifying the Central Bank was cancelled.
- Obtaining prior permission for entering in technology transfer agreements is no longer needed.
- Sector restrictions are removed. FDI is allowed in all sectors (except in media and Defence-related industries) without any prior permission.

The deregulation of FDI has allowed it, in addition of participating in the privatisation of public utilities, to enter sectors that were restricted to both foreign and domestic investors; such as Mining. As a result, important foreign investments; which helped in the development of some underdeveloped areas⁷², took place. FDI in the Mining sector represented 10% of total FDI during 1996.⁷³ The Insurance sector is another sector that has been partially liberalised and opened up to FDI. Foreigners are allowed to own and establish Argentine companies, but direct insurance contracts with foreign companies that are based outside Argentina is still limited.⁷⁴

Other deregulations that have affected FDI includes the cancellation of the local content law known by "Compre Argentino" or "Buy Argentine", which required all SOEs to buy their inputs from local sources, as long as they are available in the country.⁷⁵ The abolishing of this law meant that foreign investors who buy privatised companies are not bound with 'minimum local content' requirements.

The Argentine Regulatory framework for FDI is relatively more liberalised than that of Egypt. In Egypt similar incentives were given under the Investment Law (Law 8 of 1997) such as removing the restrictions on profit repatriation, and allowing 100% foreign ownership. However, while in Argentina FDI is regulated by one law (i.e. the Law of Foreign Investment); foreign investment in Egypt is regulated by several laws- depending on the sector- and is still required to register with the relevant regulatory body, as indicated earlier. Moreover, investments in the petroleum, insurance, and highways and

⁶⁹ Shaikh et al. (1996), p. 26

⁷⁰ Pastor Jr. and Wise (1999) and Rojo and Hoberman (1994).

⁷¹ Harteneck and McMahon (1996), Pastor Jr. and Wise (1999), WIR (1992), and Rojo and Hoberman (1994)

⁷² A joint venture between Anglo-American (a South African gold mining company) and Perez Compac (an Argentine corporation) was established to invest \$17 million in gold mining in Santa Cruz; one of the least developed areas in Argentina (Rojo and Hoberman, 1994).

⁷³ Urbiztondo (1998), p. 462.

⁷⁴ Rojo and Hoberman (1994), p. 173.

⁷⁵ Shaikh et al. (1996), p. 26

airports sectors are regulated by special laws.⁷⁶ The difference in regulatory frameworks between Argentina and Egypt is another factor explaining why FDI inflows to Argentina are more than those to Egypt.

5. Institutional and Regulatory Frameworks of Privatisation:

Egypt and Argentina had similar macroeconomic problems that motivated them to engage in privatisation. However, when it came to executing the programme, the Argentine government was aggressive and speedy in selling its SOEs, while the Egyptian government took its time and spent the first two years in restructuring its SOEs and improving their performances. Furthermore, what helped the Argentine government to apply a speedy privatisation was the existence of strong and unanimous political and public support to privatisation. In Egypt, on the other hand, there has been constantly a division among the government officials regarding which SOEs to be privatised and by what method, and that was partly influenced by personal objectives and a desire to keep office. There has been also strong opposition from labour unions and the public to privatisation in some instances for the fear of job losses. Such fears were inevitable and justified given that SOEs were over hiring and that the government was not transparent in terms of how the process is carried out or how decisions are taken to privatise a SOE. Hence, the lack of unanimous political and public support to privatisation, in addition to other factors, can explain the slow pace of privatisation in Egypt.

The legal framework of privatisation in Egypt is provided by Law 203 of 1991. Under this law, public enterprises were re-organised as affiliated companies to 27 holding companies. Later, in 1993 the holding companies were re-organised into 17 companies, then in 2001, into 14 companies.⁷⁷ The continuous restructuring and re-organisation of holding and affiliated companies slowed down the decision making process and the execution of privatisation since each new management would have a different agenda for the privatisation of its affiliated companies. It was also confusing to potential investors, given the complicated legal framework governing the process, and the lengthy process of establishing new business as will be mentioned below.

Law 203 of 1991 included 314 non-financial public enterprises with a reported book value between L.E. 72 and 77 billion and 1.1 million workers.⁷⁸ Under this law, the holding companies are no longer subject to public sector laws or granted any governmental privileges. Holding companies (HCs) and their affiliates (AFs) are to operate as commercial enterprises, set their own production, management, marketing, financial, pricing and profit policies. They are no longer in receipt of subsidies from the government, but they are allowed to borrow from commercial banks at same rates offered to private companies. Matters relating to employment, however, are still relatively tight⁷⁹. The management of affiliated companies are responsible for daily activities, while the board of directors of the holding company evaluates the performance of the affiliated companies and provides advice on possible improvements. Holding companies have the responsibility of ensuring profitability to their shareholders. The HC is also responsible for appointing half of the board of directors of the AF, while the other half is elected by the employees⁸⁰. According to Tesche and Tohamy (1994), one of the disadvantages of Law 203 is that “the heads of HCs are government ministers”⁸¹, which still reflects

⁷⁶ Foreign investment in the petroleum sector is governed by concession agreements between the investors and the Egyptian General Petroleum Corporation (EGPC). Foreign investment in the local insurance market is regulated by Law 91 of 1995. Build-Operate-Transfer projects for highways and airports are regulated by law 229 of 1996 and law 3 of 1997.

⁷⁷ Omran (2004); and Brindle (1993).

⁷⁸ Brindle (1993); and Ayubi (1994).

⁷⁹ BETF (2000).

⁸⁰ Tesche and Tohamy (1994), p. 14.

⁸¹ Ibid, p. 14.

political influence on the activities of Law 203 companies, and hence government intervention in the economic activity.

The decision on which affiliated company to be privatised, by what method, and at what time is the responsibility of the Holding companies. Figure 8 depicts how a decision of which privatisation method to use is reached. Depending on the method of privatisation used, unanimous approval from the 'Ministerial Privatisation Committee' may be required, such as in the case of selling to an anchor investor).⁸² Holding companies are assisted by other agencies and/or governmental bodies. The Public Enterprise Office (PEO); an independent body affiliated to the Ministry of Public Enterprise Sector was set up in 1991 to provide technical advice on issues related to the preparation of an SOE for privatisation, or the preparation of attractive packages of an Initial Public Offering (IPO).⁸³ Other technical support is received via technical advisory projects financed by international donors⁸⁴, such as USAID and EU.⁸⁵ The USAID acts as a long-term monitoring adviser, and for some time, it acted as a promoter for SOEs offered for privatisation to the international business. The World Bank has also supported the Egyptian privatisation program via extending Structural Adjustment Loans for developing infrastructure and establishing a 'social equity fund' to help people affected by privatisation (e.g. retraining laid-off labour, offering training programmes for unemployed graduates, providing loans to small businesses).⁸⁶

The complication of privatisation procedures depend on the technique used. For example, if an affiliated company is to lease part of its assets, then a decision can be made by the board of directors of the affiliated company. While if all assets and factories of an affiliated company are to be leased, then the decision is left to the board of directors of the Holding company.

Perhaps the most complicated procedures are those concerning the sale of an SOE to an anchor investor. According to an interview published in PCSU (2001), with Dr. Mokhtar Khatab; Minister of Public enterprise sector at that time, if an affiliated company is considered for sale to an anchor investor, the following procedures are followed:⁸⁷

- An 'extraordinary general assembly' of the holding company is called for and an agreement needs to be reached about selling the affiliated company to an anchor investor.
- A promoter is selected and information about the company is prepared. Potential buyers have to submit their offers within the deadline specified.
- A committee is formed to receive and open the offers.
- Another committee is formed to evaluate the offers and raise its recommendations to the board of directors of the HC.
- The board of directors reviews the recommendations raised by the committee with the general assembly and a *unanimous* decision need to be reached.
- The decision is then reviewed by the Ministerial Privatisation Committee (MPC), and a *unanimous* approval is needed if the sale to be complete.
- Once the MPC provides its approval, the holding company starts preparing the contract and ownership are to be transferred.

⁸² PCSU (2001).

⁸³ BETF (2000), p.12.

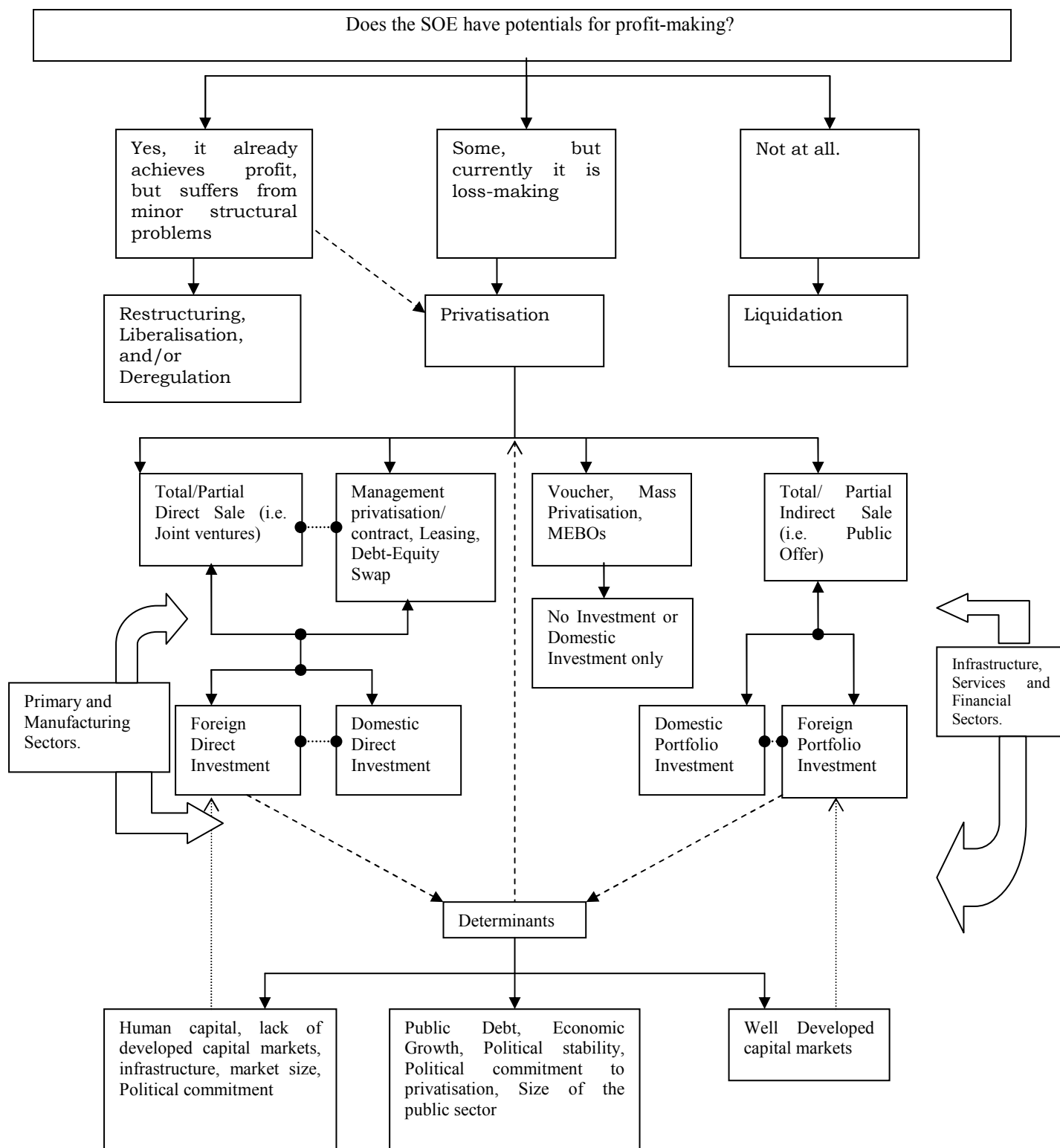
⁸⁴ For details on donor-funded agencies, see PCSU (2001), pp. 79 – 89.

⁸⁵ PCSU (2001), p. 18.

⁸⁶ Sullivan (1992), p. 30; Tesche and Tohamy (1994), p. 20; Kikeri (1998), p.421.

⁸⁷ PCSU (2001), p. 7.

Figure 8: Methods and determinants of privatisation and the type of investment involved in Egypt⁸⁸



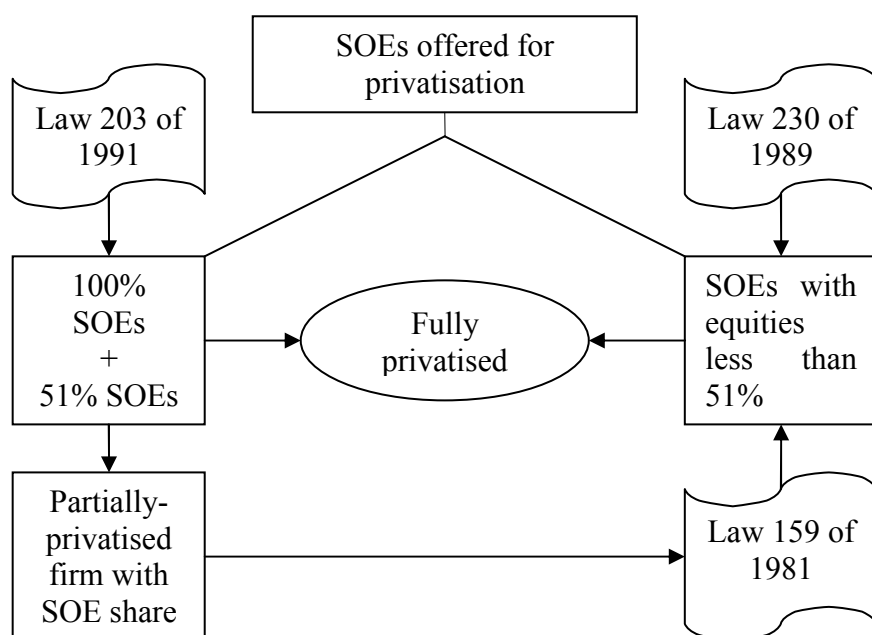
There is no guarantee how long such bureaucratic procedures could take, during which some economic factors or market conditions may change which affects the attractiveness of the SOE. In addition, lack of transparency regarding the criteria by which different committees base their decisions discourage private investors; especially foreign investors, from participating in the privatisation programme. In addition, in most cases, the anchor

⁸⁸ This diagram is just for illustration of a common path the decision-making process may take. It does not mean a particular privatisation method is only used in a given sector. In other words, a manufacturing SOE can still be privatised via domestic or foreign portfolio investment.

investor is faced with some restrictions or requirements. For example, when the Nasr Bottling company and the Egyptian Bottling company were sold to Coca Cola International and Pepsi International, respectively, the agreement maintained that they “expand production, maintain present workforce, and to float 20% of equity on stock market ... [and] offer 10% to workers within 2-3 years” (Tesche and Tohamy, 1994, p. 17).

SOEs offered for privatisation may be 100% or 51% owned by the state. These two types of SOEs are subject to Law 203 of 1991. The government has also offered its share in other companies, where it holds less than 51% of the equity, for privatisation. These companies are subject to investment laws no. 159 of 1981 and 230 of 1989.⁸⁹ Once the state’s share in a ‘Law 203 company’ falls below 51%, this company becomes automatically subject to investment law no. 159 of 1981 (see figure 9).

Figure 9: Regulatory framework of SOEs



One major drawback in this regulatory framework is that it is unclear under which investment law will a fully privatised company operate. One may argue that, from a point of view of a potential foreign investor, this multiplicity of laws is a major deterrent for foreign participation in privatisation. It is unclear which law regulates a firm that has been fully privatised and sold to a foreign investor. If a foreign investor buys majority shares of an SOE, after which the State’s share is reduced to 51%, then the partially privatised company will automatically be subjected to Investment Law 159 of 1981, which incorporates some restrictions on FDI, as discussed earlier. The dilemma here is that participating in privatisation will not grant the foreign investor the privileges of investment law no. 8 of 1997⁹⁰, and hence it would be better for the investor to enter the market with a Greenfield investment. This may be considered one of the reasons limiting FDI participation in the privatisation program of Egypt.

⁸⁹ Any JVs between the public sector and private sector that were created under law 43 of 1974 are not considered within the privatisation program (Ayubi, 1995, p. 11).

⁹⁰ Under Law no 8 of 1997, there are no explicit provisions that relate between foreign investment and privatised companies. In addition, with the way the incentives are formulated, one may conclude that it is applicable on Greenfield investment only. On the other hand, GAFI is the authority responsible for the promotion of FDI opportunities and implementing the provisions of Law no. 8 of 1997. While it is the holding companies in coordination with the Public Enterprise Office (PEO), as discussed earlier, that negotiate and organise the privatisation of an SOE. Therefore, there is no co-ordinating, or dedicated, body that promotes both privatisation and Greenfield investment opportunities to the foreign investor.

Another weakness in the Egyptian privatisation programme is that it proceeded without the existence or development of regulatory bodies for post privatisation activities. The regulation of the Cement Industry is a prominent example of such weakness. The cement industry was dominated by more than a dozen of SOEs, with Torah Cement and Suez Cement constituting the market leaders in early 1990s. In 1999, the government started to privatise its SOEs in the Cement Industry. The government privatised seven of these SOEs that accounted for two-thirds of total cement production in the economy via selling controlling shares to multinationals. The market, however, did not have regulatory bodies that can ensure competition. When the government started privatising the cement industry, the only regulating body was the Cement Industry Committee (CIC), with the main role of controlling the cement prices in the domestic market. However, the CIC failed to prevent the formulation of anticompetitive behaviour and collusion, and cement prices kept increasing sharply. Although the government has been pushing for a legislation that restricts monopoly and promotes competition in the cement and steel industries since 1995, it took them at least 17 drafts and 10 years until the law was finally passed in 2005 and the Egyptian Competition Authority (ECA) was created in 2006.⁹¹

In other words, the privatisation programme in Egypt progressed without any regulatory agencies in place. And by the time it reached to a halt in 2005, the government was just starting to create regulatory bodies. This contradicts what the government announced at the beginning of its privatisation programme that the aim of privatisation is to encourage the private sector and increase competition in the economy. The fact that pre-privatisation markets were still monopolistic and anticompetitive fuelled more anti-privatisation feelings among the public as they viewed that privatisation has served only the interests of few local businessmen and was characterised with lack of transparency and corruption.

Privatisation in Argentina, on the other hand, managed to avoid some of the institutional and regulatory weaknesses that characterised the Egyptian programme. As most of the national Argentine enterprises are natural monopolies, the Argentinean government attempted to ensure some degree of competition once privatisation took place by creating contestant markets via establishing regulatory agencies and breaking down the large SOEs into smaller business units.

The natural monopoly nature of some SOEs meant that, even with the break-down of the SOEs into separate units, the newly privatised companies will still enjoy some monopolistic or oligopolistic advantages. The government realised that such advantages are necessary to attract private investors. This meant that the privatisation of public utilities would lead to allocative inefficiency. To compensate for the loss of allocative efficiency, the government had to ensure that there would be an increase in the productive efficiency and improvement in the quality of services provided. Hence, the bidding documents specifically asked that at least one of the buyers of a given SOE be an international operator/ company (such as in the case of the airline privatisation), and that they will be committed to investment plans and to improving the quality of the privatised product/service (Gerchunoff and Coloma, 1993; the World Bank, 1993). Hence, Argentina was more adamant and welcoming to FDI participation than Egypt.

The government's primary objectives from privatisation were:

- 1- To achieve short-term financing for reducing the financial deficit and external debt of the state.
- 2- To increase competition and improve the quality of public utility services.

⁹¹ Ghoneim, A. (2008), "Privatisation alone is not enough", in *Competition and Development: the power of competitive markets*, the International Development Research Centre (IDRC). http://www.idrc.ca/uploads/user-S/12093951851Comp_Case2_e_Egypt.pdf [Accessed 24/5/2009]

To achieve short-term financing and debt reduction, the government had to apply a speedy privatisation process that entailed wasting no time on operationally improving the SOEs- unlike the case in Egypt - and for the first two privatisations (i.e. ENTel, and AA) there were no market regulation prior to privatisation (Gerchunoff and Coloma, 1993). These early privatisations constituted a learning experience for the government of Argentina. Since 1992, the government's privatisation approach differed. For subsequent privatisations (such as Gas and Electricity that took place in 1992) regulatory agencies (i.e. ENERGAS and ENRE) had been already established in 1991. That is why later privatisations are generally considered better in terms of transparency and quality than early privatisations.⁹²

Establishing regulatory bodies and deregulating the Argentine markets started in 1991 when President Carlos Menem issued the **Deregulation Decree**⁹³ (Decree 2284/91) on October 31, 1991. The decree specified deregulatory actions for seven aspects of the economy: "the domestic marketing of goods and services, international trade (imports and exports), public regulatory entities and public administration, public budget and tax reform, the capital market, the social security system and the collective bargaining/labour regime" (Rojo and Hoberman, 1994, p. 167).⁹⁴

The decree also laid the basic strategies that were to be used by the Undersecretariat of Deregulation in establishing regulatory agencies. Prior to the 1990s, Argentina had weak regulatory framework, independent regulatory entities did not exist, and the government lacked the essential experience to establish such independent regulatory agencies.⁹⁵ The government realised that a successful economic liberalisation requires separating the regulatory bodies from political influences.⁹⁶ With the help of the World Bank⁹⁷, the government established four regulatory agencies in the main public utility sectors in which privatisation took place:

- 1- The Comisión Nacional de Telecomunicaciones (CNT) for regulating the telecommunication sector;
- 2- The Ente Nacional Regulador de Gas (ENERGAS) for regulating natural gas sector;
- 3- The Ente Nacional Regulador de la Energía Eléctrica (ENRE) for regulating the Electricity sector; and
- 4- The Ente Tripartito de Obras y Servicios Sanitarios (ETOSS) for regulating the Waterworks (i.e. water and sewerage services) sector.

Both CNT and ETOSS were created by presidential decrees (i.e. decree 1185 of 1990 and decree 999 of 1992; respectively⁹⁸), while ENERGAS and ENRE were created by Congressional laws (i.e. law 24 076 and law 24 065; respectively⁹⁹). These regulatory agencies were given administrative autonomy and their finances did not come from public sources, rather they raised their finances from the regulation fees paid by the regulated firms under their authority. The main responsibilities of these regulatory agencies were monitoring and reviewing prices, ensuring competitiveness, and/ or preventing anticompetitive practices.¹⁰⁰

⁹² Shaikh et al. (1996), p. 18.

⁹³ In reforming the Argentine economy some economic reform decisions were taken by presidential decrees rather than by congressional laws. The Argentine government used decrees to ensure speed and credibility of application, and to overcome any potential opposition to the proposed action. (Rojo and Hoberman, 1994).

⁹⁴ For more details on deregulatory actions taken in each market, see Rojo and Hoberman (1994).

⁹⁵ World Bank (1993) and Shaikh et al. (1996)

⁹⁶ Urbiztondo (1998)

⁹⁷ For more details on the role of the World Bank and other international agencies in Argentina's privatisation see: Alexander and Corti (1993), Shaikh et al. (1996) and The World Bank (1993)

⁹⁸ Mairal (1996), p.135

⁹⁹ Ibid, p. 135.

¹⁰⁰ For more details on the composition, responsibilities and decision making of the regulatory agencies in Argentina, see Urbiztondo (1998), pp. 468- 478.

Granting financial and administrative independence to the regulatory agencies, however, was not enough to ensure the objectivity of the regulatory system. To some extent, the regulatory bodies were susceptible to political influences or private firms' agenda. The degree of influence depended on the number of firms being regulated under each agency. On one hand, CNT was more affected by lobbying activity as it was mainly regulating two private telecommunication firms (i.e. Telecom and Telefónica). On the other hand, ETOSS was influenced more by political factors as its members are from national and provincial governments, and it is regulating the activities of only one company.¹⁰¹ On the other end of the spectrum, ENERGAS and ENRE are less vulnerable to be affected by the agendas of their regulated firms or by the agenda of the governing party as they each regulate many firms (hence the diversity of their financing sources) and the appointment of their members needs Congressional approval. (Pastor Jr. and Wise, 1999)

In terms of the legal framework, the basic legal statute of privatisation in Argentina was put by two important laws that were passed by the Congress in 1989: The first is the *State Reform Act (SRA)* or law (23 696) and the *Economic Emergency Act (EEA)* or law (23 697). The SRA empowered the President to appoint trustees for the SOEs to be privatised. A trustee was to be in charge of the SOE till it is being privatised. The trustee is accountable to the president only. Priority was given to structural and labour reorganisation rather than operational improvements. Operational improvements were left to the new owners, and hence the government did not waste time in first financially improving the SOE prior to selling it (as in the case of Egypt). The trustee ensured the implementation of the voluntary retirement programme¹⁰² and the break down of large public utility enterprises into smaller business units. The SRA also put the Ministry of Economy in charge of privatisation, which in turn created a special division to deal with privatisation known by the Undersecretariat for Privatisation.

The EEA, on the other hand, listed the companies to be privatised.¹⁰³ The law also required the government to follow a set of privatisation methods and procedures in principal, such as selling 10% of the privatised SOE to the employees through the implementation of Employee Stock Ownership Programmes (ESOP)¹⁰⁴. However, the law was not too rigid as it gave the government the authority to decide on the best privatisation strategy especially if the proposed strategies by the law proved to be inappropriate. The law also gave authority to the government to privatise any other companies that were not listed in the EEA subject to prior approval of the Congress.¹⁰⁵

The mostly used technique in privatising Argentina's SOEs, whether via sale of shares or via concessions, was the two-envelop competitive bidding system. Each bidder was to submit two envelopes: the first contained the technical offer, while the second contained the financial offer. The buyers were mostly consortia of foreign and local investors.¹⁰⁶ Since debt reduction was an important objective of the government, the bidding documents of the first privatisations specifically asked for the payment form to be partly in cash and partly in Argentine debt papers. Later, as the price of Argentina's debt increased, the government bidding documents included a minimum cash equivalent that incorporated the value of debt (The World Bank, 1993).

¹⁰¹ ETOSS regulates the activity of Obras Sanitarias de la Nación (OSN), which is a natural monopoly firm, providing waterworks for the greater Buenos Aires area. The firm has been privatised via concessions, and hence the privatised firm stayed as a natural monopoly, which gave more leverage to the private concessionaire to influence the decisions of the regulatory body ETOSS.

¹⁰² Argentina had a generous severance payment scheme that allowed smooth application of privatisation without much resistance from the labour force. Severance benefits were estimated to be around \$7200 per affected employee, which was more than what public employees were earning per year. For more information on the Argentine severance scheme, see Harteneck and McMahon (1996) and Alexander and Corti (1993)

¹⁰³ See the appendix for the list of Argentine SOEs to be privatised.

¹⁰⁴ Mairal (1996)

¹⁰⁵ Harteneck and McMahon (1996).

¹⁰⁶ The World Bank (1993), p. 6

Most privatisations followed the following sequences:¹⁰⁷

- 01- Parliamentary approval.
- 02- Establishment of privatisation commissions for each SOE to be privatised.
- 03- Preparation and approval of the regulatory framework.
- 04- Contracting the services of technical, legal and financial consultants via competitive bidding.
- 05- Reorganising the SOE for sale into separate business units.
- 06- Restructuring labour within the SOE and implementing voluntary retirement schemes.
- 07- Establishing the regulatory structure, whenever necessary.
- 08- Preparation of bidding documents and transfer contracts.
- 09- Pre-qualification of potential bidders.
- 10- Issuance of tender documents.
- 11- Receipt and evaluation of bides.
- 12- Preliminary and final award.
- 13- Final transfer of assets/ company.
- 14- Selling the remaining state's minority shares via public offering in the stock market.
- 15- Implementation of employee stock ownership programmes (ESOPs).

The institutional framework of privatisation in Argentina is a hybrid of centralised monitoring (by the Undersecretariat for Privatisation and the Congressional privatisation committee) and decentralised implementation (via different privatisation commissions). The responsibilities of the Undersecretariat for Privatisation are:¹⁰⁸

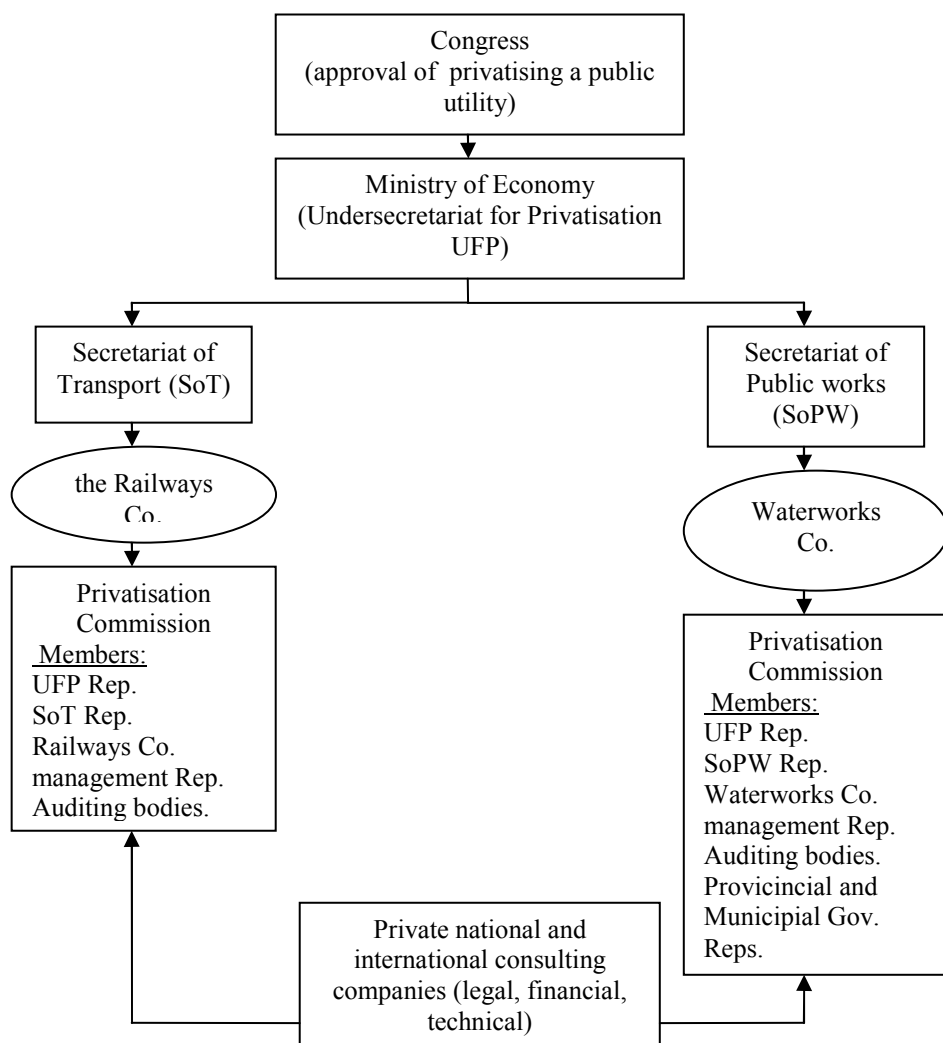
- 1- Monitoring and ensuring consistency and transparency in the privatisation process.
- 2- Setting a timetable for privatisation and monitoring its application.
- 3- Implementing and managing the Employee Stock Ownership Programme (ESOP)
- 4- Ensuring the uniformity in the application of voluntary retiring schemes.

The responsibility of planning and implementation of actual privatisations were left to the relevant state secretariat (i.e. secretariat of transport, secretariat of energy, secretariat of communication, etc.). Special privatisation commissions were formed of representatives from the Undersecretariat for Privatisation, the relevant state secretariat, the SOE management, auditing bodies, and sometimes representatives from the provincial or municipal governments if they partially own the SOE (such as in the case of the Waterworks Company). These commissions were to decide on the method of privatisation, prepare the offering documents, and implement the privatisation procedures. The manager of the privatisation commissions was to report to the head of the relevant state secretariat. The privatisation commissions had access to various pre-qualified consulting firms that offered them various technical, legal, and financial assistances. Figure 10 illustrates the institutional framework of privatisation in Argentina.

¹⁰⁷ Harteneck and McMahon (1996), p. 76, The World Bank (1993), pp. 3-4, and Alexander and Corti (1993), p. 4.

¹⁰⁸ Shaikh et al. (1996), p. 25, and Harteneck and McMahon (1996), p. 75.

Figure 10: Institutional Framework of Privatisation in Argentina



In general, the institutional framework of privatisation in Argentina is similar to that of Egypt. Egyptian SOEs were grouped in holding companies (HCs), each controlling a number of affiliated companies (AFs). It is the AFs (as opposed to the new business units in Argentina) that are offered for privatisation. However, the implementation procedures of privatisation in Argentina are simpler than those in Egypt. In Egypt, the decision of privatising an affiliated company goes through many committees, and finally it is reviewed by a Ministerial Committee. Such lengthy procedures slowed down the privatisation process in Egypt. Moreover, conflict of interests existed within the Egyptian institutional framework, as state ministers were sometimes the head of the holding company (which is responsible for deciding which affiliated company to be privatised), and members in the Ministerial privatisation committees. This means that there is no clear separation between the implementation and monitoring processes within the Egyptian institutional framework. Moreover, given that not all Ministers are pro-privatisation¹⁰⁹, personal political agendas were interfering with the decision making

¹⁰⁹ Privatisation advocates, also referred to as 'reformists' were represented by Fouad Sultan, Minister of Tourism; Yousef Wali, Minister of Agriculture; and Atef Obeid, Minister of Cabinet Affairs (who became Minister of Public Enterprise Sector in 1996, then Prime Minister in Oct. 1999). They called for taking drastic moves towards immediate privatisation and economic reform. On the other hand, opposition of immediate privatisation, and also referred to as 'gradualists', was led by Kamal El Ganzouri, Minister of Planning (who later became the Prime Minister between 1996 – 1999); and Muhammad Abdel Wahab, Minister of Industry (Sullivan, 1992, p. 25).

process, which slowed down the pace of privatisation in Egypt. In Argentina, on the other hand, the organisation of the newly business units to be privatised was the sole responsibility of the trustees, who were appointed by, and solely accountable to President Menem. Shaikh et al. (1996) argue that “Replacing the chief executive [of an SOE] with another individual with a clearer mandate for privatisation and less attachment to the status quo- itself a sign of government seriousness- will contribute to the pace of reform”¹¹⁰. The existence of independent trustees, political support by all government officials, and congressional support and monitoring ensured no conflict of interests within the institutional framework, and speedy application, of the Argentine privatisation programme.

6. Lessons and Policy Implications:

The comparison between Egypt and Argentina in terms of their institutional and regulatory frameworks of privatisation and FDI highlight some good practices and lessons:

1- Strong and unanimous political and public support to the privatisation policy ensures that a programme is completed within its predetermined timeframe and without any interruptions. It reflects the country’s commitment to carry the announced programme and, hence, encourage investors, especially foreign investors, to participate in the programme and accelerating its pace. The lack of such support has led to the halt of the privatisation programme in Egypt. The letter of intent that was signed with the IMF expected that the Egyptian privatisation programme would be completed by 1997. Actual privatisation, however, started in 1993 and the majority of transactions took place between 1993 – 2000. The programme then froze between 2000 and 2002. Since 2002, few privatisation transactions took place in the Banking sector, until the programme reached another halt in 2005.

2- Clear and simple regulations and procedures of privatisation facilitates the participation of FDI. In developing the regulatory framework of privatisation, governments need to be clear whether it targets FDI participation by clearly linking between the regulatory frameworks of privatisation to that of FDI. In Argentina, FDI participation in privatisation accounted for 63% of privatisation proceeds, while in Egypt it only accounted for 24% of privatisation proceeds. One may argue that the limited participation of FDI in the Egyptian programme was partly caused by the multiplicity of laws regulating FDI activities, the complication of business establishment steps and the involvement of at least two FDI regulatory agencies and the weakness of incorporating these regulatory FDI laws within the privatisation regulatory framework (as indicated by figure 9). In Argentina, on the other hand, FDI was fully liberalised in early 1990s, regulated by one law and one regulatory agency. Hence, the policy maker should make sure that the liberalisation of FDI goes hand in hand with the development of the regulatory framework of privatisation. Removing obstacles such as reducing the steps of establishing a foreign business, providing a one-stop-shop authority for FDI and removing multiplicity in laws will encourage more FDI inflows to the country.

3- Transparency ensures public support to, encourages foreign participation in, and fast application of privatisation. Furthermore, transparency leads to less corruption. Both Egypt and Argentina hold close scores according to Transparency International¹¹¹ and more efforts are still needed to reduce the level of corruption in both countries.

In the case of Argentina, some (e.g. Saba and Manzetti, 1997) believed that the concentration of power given to the Executive Branch by the Congress (i.e. via the SRA

¹¹⁰ Shaikh et al. (1996), p. 17.

¹¹¹ See table 8 in the appendix.

and EEA) had increased the levels of corruption¹¹² and allowed for favouritism in the privatisation of some SOEs, such as ENTEL (Saba and Manzetti, 1997). The Argentine government, however, strongly refused to accept the TI estimates and the allegations of corruption and claimed that the CPI does not reflect the efforts done to control and reduce corruption.¹¹³ Furthermore, some (e.g. Urbiztondo, 1998; Shaikh et al., 1996; and Alexander and Corti, 1993) argue that privatisation procedures and the regulations of the markets in Argentina were indeed transparent, and that the corruption levels were reduced¹¹⁴, especially with the constant scrutiny of the Argentinean media over every step taken by the government during the reform of the economy.

In Egypt, on the other hand, investors complain of lack of transparency and high levels of corruption (BETF, 2000). The process of privatising an SOE to an anchor investor, mentioned earlier, highlights the bureaucracy and lack of transparency in the whole process. It also increases the possibility of corruption given the requirement of unanimous approval of all committee members and that some of these members are both heads of holding companies and governmental ministries at the same time, which represents conflicts in interests and agendas. Furthermore, the lack of public support resulted from the lack of transparency and the public believe that the process is corrupt and that only few wealthy local businessmen were benefiting from the privatisation of the SOEs. The Egyptian privatisation programme has arrived to a complete halt in 2005, and the government is now thinking of distributing free shares to citizens in strategic SOEs in the industries of iron, steel, cement, transportation and tourism¹¹⁵ in an attempt of regaining the public support of the government and privatisation.

4- Developing the regulatory bodies prior or during privatisation is essential to ensure competition and to augment the positive effects of privatisation on the economy. A lack of market regulations may lead the newly privatised companies to behave as monopolists and hinder the process of economic reform and liberalisation. Moreover, it is important for the success of the privatisation and economic liberalisation that regulatory bodies are separated from any political influences. Both Egypt and Argentina had no or weak market regulations prior to privatisation. However, while Argentina engaged in the process of developing its regulatory bodies within two years of the start of its privatisation programme, Egypt proceeded with its privatisation programme without developing its regulatory framework, and only started doing so in 2005; 15 years after the government started privatisation and just as the programme reached to a halt. Such delay in developing market regulations led to the formulation of anticompetitive practices by some privatised firms (e.g. in the cement industry) in Egypt.

5- Preparing and re-organising the SOEs for privatisation need to be achieved quickly, as it is another factor that reflects the government's commitment to privatisation. It is also important to separate between the monitoring and implementing bodies of privatisation and ensure that the implementing bodies are strictly independent. This practice was evident in Argentina, where the government did not waste its time in operationally improving the SOEs prior to privatisation, and entrusted the re-organisation and the implementation of privatisation to a trustee, who is solely accountable to the president, and hence, not influenced by achieving his own personal agenda. In Egypt, however, the situation was different. The government wasted two years in operationally improving its newly restructured SOEs, and the managers of the newly formulated holding companies

¹¹² One of the examples given to reflect the concentration of the power and susceptibility of the privatisation programme to corruption is the extensive use of decrees in privatising or regulating some sectors. During the first 3 years of President Menem's rule, over 100 decrees were issued as compared to a total of 23 decrees over 1853- 1989. These decrees were issued to avoid any possible disapprovals within the Congress to a specific privatisations. These decrees were often unconstitutional, however, the Supreme Court approved them in the light of the severe economic conditions prevailing at the time. (Saba and Manzetti, 1997, p. 362)

¹¹³ Transparency International (1997), *Corruption Perception Index: Press Release*, Berlin. www.transparency.de

¹¹⁴ The government of Argentina has always denied any allegations of corruption, and quickly dismissed any Minister or Official who comes under suspicion. (Saba and Manzetti, 1997, p. 365)

¹¹⁵ Fraser, C. (2008); "Egypt to distribute free shares", *BBC News*. http://news.bbc.co.uk/2/hi/middle_east/7720677.stm [Accessed on 18/11/2008]

were also governmental Ministers. This has slowed down the application of the privatisation and has given negative signals to potential investors about the government commitment to the programme and casted some doubts about the existence of personal objectives when it came to decide which affiliated company to be privatised and by which method.

6- The participation of an independent media (i.e. media that is not affected by political agenda) can play an important role in ensuring transparency and reducing the opportunities of corruption. Getting full access to the information of privatising an SOE and monitoring the process of privatising this SOE ensures that the public will be kept informed, and hence gains the public's support to the programme.

7. Conclusion:

This paper aimed at comparing between the Egyptian and Argentinean privatisation programmes and the extent of FDI participation in these programmes. Although both countries come from similar economic background and were motivated by similar macroeconomic problems to engage in privatisation, the Argentinean privatisation programme followed a fast pace and was completed within its expected timeframe, while the Egyptian programme progressed slowly and took longer than expected and, by 2005, it reached to a complete halt. Moreover, FDI participation in privatisation was larger in Argentina than in Egypt¹¹⁶ (i.e. 62.6% of total proceeds in Argentina compared to 24.3% of total proceeds in Egypt). This paper attempted to explain such differences between the two programmes based on the differences in the institutional and regulatory frameworks in each country. The comparison between the two experiences yielded the following observations:

1- FDI participation was larger in the Argentine privatisation than in the Egyptian privatisation because:

a: The government of Argentina explicitly demanded the participation of international operators in certain privatisations (e.g. Airlines).

b: Overall, the privatisation procedures were transparent (Shaikh et al., 1996) and the regulatory frameworks of privatisation and FDI were clearly defined and simple, while in Egypt the regulatory frameworks of privatisation and FDI are not clearly connected as in the case of Argentina. Foreign investors often complained of lack of transparency and corruption (BETF, 2000), in addition to the multiplicity of laws and complication of business establishment procedures in the Egyptian economy.

c: The privatisation of infrastructure sector is more attractive to foreign investors because of its economies of scale (Sader, 1993). As seen above, the majority of Argentine privatisation took place in the infrastructure sector, while in Egypt; it took place in the manufacturing sector.

d: The smaller size of the Argentine public sector, compared to that in Egypt, implies that the private sector in Argentina was relatively more developed than that of Egypt at the time when privatisation took place. Hence, Argentina had the advantage of having relatively more advanced private firms with enough entrepreneurial experience, and financial and technical capacities to form consortia with international firms and participate significantly in, and accelerate, the privatisation programme¹¹⁷.

2- Overall, privatisation in Argentina was applied faster than in Egypt because of:

a: the strong and unanimous support it received from all parties concerned (i.e. the president, the government officials, the consumers, and the workers). In Egypt, on the other hand, privatisation has been always a controversial issue and rarely receives unanimous support. There has always been some resistance to privatisation within

¹¹⁶ Privatisation in Argentina started in 1988, while in Egypt it started in 1993.

¹¹⁷ The World Bank (1993), p. 22.

the different governments that came to power during the 1990s. Some officials (headed by ex-prime minister Kamal El Ganzouri) were resisting rapid privatisation. Others (headed by ex-prime minister Atef Abeid) were in favour of rapid application of privatisation.¹¹⁸

b: Furthermore, labour unions objected to many attempts of privatisation in Egypt (Ott, 1991). As a result, to avoid resistance from labour unions, the government sometimes specifically required that the buyer maintain the current workforce (e.g. the privatisation of Nasr Bottling Company and the Egyptian Bottling company to Coca Cola International and Pepsi International; respectively)¹¹⁹. In Argentina, on the other hand, generous Severance payments allowed for the reduction in labour force in the SOEs (e.g. employment in YPF was reduced from 51,000 in 1991 to 10,600 in 1993, and employment in Railways was reduced from 156,000 to 95,000 prior the start of privatisation)¹²⁰ without huge resistance from the labour force. Selling SOEs that are not over staffed is another attraction factor for FDI participation.

In summary, the basic difference between the Argentine and Egyptian experiences with privatisation and FDI is that while in Argentina full liberalisation of FDI regulations was coordinated with the application of speedy privatisation programme, backed up with strong political and public commitment, in Egypt, FDI liberalisation developed gradually and separately from the application of a relatively cautious and conservative privatisation programme that lacked unanimous commitment from the various parties involved. Such different approaches had different effects on FDI inflows to the Argentinean and Egyptian economies in general¹²¹, and on FDI participation in their privatisation programmes, in particular.

¹¹⁸ Sullivan (1992), p. 25.

¹¹⁹ Tesche and Tohamy (1994), p. 7.

¹²⁰ Harteneck and McMahon (1996), p. 82 and Alexander and Corti (1993), p. 2.

¹²¹ While Argentina enjoyed an overall steady increase in FDI during 1970-2000; with a particular surge since privatisation started in 1989, Egypt exhibited fluctuating FDI trends during the same period. (See figure A1 in the appendix)

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Appendix

Table 1: Selected macroeconomic indicators for Egypt during 1960 - 2000

Year	GDP growth % p.a.	GDPpc growth % p.a.	Exports %GDP	Imports %GDP	Inflation % p.a.	External Debt % GDP ^a	Exchange Rate ^b
1960	NA	NA	19.52	20.09	NA	NA	0.35
1961	4.400376	2.16606	17.21	20.69	0.69	NA	0.35
1962	6.856657	4.273142	17.16	23.03	-3.00	NA	0.40
1963	9.055534	6.246758	18.66	25.21	0.75	NA	0.43
1964	8.142304	5.29027	18.52	23.07	3.66	NA	0.43
1965	9.225085	6.357968	17.54	21.35	14.84	NA	0.43
1966	1.056637	-1.52883	16.95	19.90	9.04	NA	0.43
1967	0.625937	-1.84465	14.65	17.76	0.70	NA	0.43
1968	2.721421	0.327434	13.19	17.00	-1.67	NA	0.43
1969	6.812552	4.464884	14.21	17.51	3.41	NA	0.43
1970	5.598506	3.413375	14.18	18.75	3.76	38.77	0.43
1971	3.440911	1.612906	13.79	18.89	3.14	40.36	0.43
1972	2.028897	0.226714	13.35	19.13	2.10	36.19	0.43
1973	0.705251	-1.12199	13.98	19.16	5.11	34.72	0.398
1974	2.485497	0.539727	20.51	37.24	10.02	34.48	0.391
1975	8.939176	6.753037	20.18	41.28	9.67	63.33	0.391
1976	14.62725	12.18057	22.27	34.00	10.32	68.77	0.391
1977	12.83696	10.26716	22.48	33.20	12.73	105.68	0.391
1978	5.779704	3.249184	21.75	37.02	11.08	102.22	0.391
1979	6.038857	3.430312	29.73	48.34	9.90	103.12	0.70
1980	10.01134	7.266241	30.52	42.87	20.66	110.18	0.70
1981	3.756081	1.131462	33.37	48.81	10.32	112.09	0.70
1982	9.907166	7.098723	27.03	41.93	14.82	118.89	0.70
1983	7.401136	4.645538	25.48	36.43	16.08	117.79	0.70
1984	6.091523	3.374819	22.35	35.81	17.04	114.01	0.70
1985	6.602048	3.894057	19.91	32.04	12.11	116.29	0.70
1986	2.646573	0.09667	15.73	25.59	23.86	122.35	0.70
1987	2.519425	0.030258	12.56	22.77	19.69	128.16	0.70
1988	5.300718	2.80321	17.32	35.16	17.66	123.01	0.70
1989	4.972376	2.541658	17.89	32.35	21.26	111.74	0.867
1990	5.701755	3.313619	20.05	32.71	16.76	73.53	1.55
1991	1.078838	-1.13614	27.82	35.80	19.75	69.36	3.138
1992	4.433497	2.216034	29.03	31.84	13.64	61.85	3.322
1993	2.881339	0.766857	27.70	30.70	12.09	57.65	3.353
1994	3.948012	1.882405	22.94	28.14	8.15	57.56	3.385
1995	4.665233	2.656714	22.45	27.50	15.74	55.41	3.392
1996	5.009634	3.074985	20.18	25.96	7.19	48.70	3.391
1997	5.492355	3.494406	19.55	25.83	4.63	43.20	3.389
1998	5.579399	3.584123	16.25	26.37	4.18	43.57	3.388
1999	6.023651	4.013644	15.13	23.70	3.08	38.65	3.395
2000	5.123736	3.142068	16.14	22.73	2.68	33.81	3.472

Source: WDI CD-ROM (2002)

^a calculations are based on constant 1995 US\$.

^b LCU per US\$

Table 2: Selected macroeconomic indicators for Argentina during 1960 - 2000

Year	GDP growth % p.a.	GDPpc growth % p.a.	Exports %GDP	Imports %GDP	Inflation % p.a.	External Debt % GDP ^a	Exchange Rate ^b
1960	NA	NA	7.60	7.60	NA	NA	NA
1961	5.43	3.52	5.99	5.99	13.39	NA	NA
1962	-0.85	-2.46	4.69	9.38	28.32	NA	87.17E-13
1963	-5.31	-6.72	7.89	7.89	23.90	NA	13.87E-12
1964	10.13	8.57	5.56	5.56	22.20	NA	14.04E-12
1965	10.57	9.05	6.23	4.15	28.63	NA	16.96E-12
1966	-0.66	-2.02	6.65	4.99	31.91	NA	20.92E-12
1967	3.19	1.76	7.50	5.00	29.20	NA	33.34E-12
1968	4.82	3.32	6.48	5.40	16.21	NA	35.00E-12
1969	9.68	8.06	6.40	6.40	7.57	NA	35.00E-12
1970	3.05	1.46	5.60	4.74	13.59	18.39	37.92E-12
1971	5.66	3.89	6.01	6.61	34.73	18.78	45.22E-12
1972	1.63	-0.08	7.20	6.84	58.45	19.50	50.00E-12
1973	2.81	1.09	7.61	5.71	61.25	13.75	50.00E-12
1974	5.53	3.80	6.90	6.29	23.47	10.53	50.00E-12
1975	-0.03	-1.64	5.82	5.98	182.93	14.73	36.58E-11
1976	-2.02	-3.55	9.18	5.92	443.97	18.13	14.00E-10
1977	6.93	5.32	9.62	7.33	176.00	20.16	40.76E-10
1978	-4.51	-5.91	8.61	5.72	175.51	22.86	79.58E-10
1979	10.22	8.60	6.51	6.33	159.51	30.25	13.17E-09
1980	4.15	2.60	5.06	6.48	100.76	35.29	18.37E-09
1981	-5.69	-7.11	6.92	7.37	104.48	45.32	44.03E-09
1982	-4.96	-6.39	9.09	6.52	164.78	51.76	25.92E-08
1983	3.88	2.31	9.15	5.84	343.81	44.16	10.53E-07
1984	2.21	0.67	7.59	4.76	626.72	61.77	67.65E-07
1985	-7.59	-8.97	11.74	6.27	672.18	57.62	60.18E-06
1986	7.88	6.28	8.16	6.32	90.10	47.28	94.30E-06
1987	2.91	1.41	7.87	7.58	131.33	52.61	21.44E-05
1988	-2.56	-3.94	9.53	6.21	342.96	46.62	87.53E-05
1989	-7.50	-8.76	13.06	6.58	3079.81	85.15	0.04
1990	-2.40	-3.68	10.36	4.63	2313.96	44.03	0.49
1991	12.67	11.19	7.68	6.08	171.67	34.47	0.95
1992	11.94	10.46	6.60	8.31	24.90	29.87	0.99
1993	5.91	4.51	6.96	9.32	10.61	27.34	1.00
1994	5.84	4.43	7.56	10.60	4.18	29.19	1.00
1995	-2.85	-4.14	9.70	10.07	3.38	38.29	1.00
1996	5.53	4.17	10.46	11.05	0.16	40.94	1.00
1997	8.11	6.74	10.56	12.72	0.53	43.85	1.00
1998	3.85	2.55	10.41	12.90	0.92	47.35	1.00
1999	-3.40	-4.60	9.80	11.49	-1.17	51.29	1.00
2000	-0.52	-1.74	10.78	11.42	-0.94	51.30	1.00

Source: WDI CD-ROM (2002)

^a calculations are based on constant 1995 US\$.^b LCU per US\$

Table 3: SOEs participation in GDP and Investment, 1984, percentages^a

	Participation in GDP	Participation in GDI
World Average	9.4	13.4
Industrialised Countries	9.6	11.1
Developing Countries	8.6	27.0
Africa	17.5	32.4
Asia	8.0	27.7
Europe	6.6	23.4
America	6.6	22.5
Argentina	7.4	20.5
Egypt^b	40.0*	n.a.

Source: a- Data on all regions except Egypt is from Gerchunoff and Coloma (1993), p. 252 (based on IMF and Sindicatura de Empresas Publicas.

b- Data on Egypt is from Aly (1992), p. 55.

Notes: * represents the share in output over 1974 – 1986.

Table 4: Privatisation transactions by technique between 1993 and 2000/2001

Privatisation Technique	No. of Companies/ production units privatised	Sale Value in L.E. million
Sale of majority or all shares through the stock market	38	5,651
Sale of majority interest to an anchor investor	26	6,702
Sale to Employee Shareholder Associations	30	870
Sale of minority interests in companies	16	1,755
Sale of production assets	18	839
Sub-total	128	15,817
Complete Sale of assets	32	
Lease of production units	20	
Total	180	

Source: PCSU (2001), p. 9.

Table 5: FDI participation in the Egyptian Privatisation Programme (1993 – 2000)

Year	Sector ^a	Affiliated company	Buyer	Percentage Sold		Value (US\$ million) ^a	Foreign Exchange ^a (US\$ million)
				Private sector	ESA		
1993 ^a	Tourism	Crocodile Tourist Project Co. (Jolie Ville Luxor)	Foreign Investors	n.a.	n.a.	0.5	0.5
1994	Food and Beverage	Egyptian Bottling Co.	Pepsi International + Local investor	90%	10%	46.1	46.1
	„	El Nasr Bottling Co.	Coca Cola International + Arab Investor	90%	10%	95.1	95.1
	Manufacturing	El Nasr Boilers	Babcock & Wilcocks International	100%	0%	17.1	17.1
1996/ 1997 ^b	F&B	Al Ahram Beverages ^b	Consortium Local + International Luxor group + Danbrew	90%	10%	68.0	..
1998 ^a	Tourism	San Stefano Hotel ^c	Consortium led by Prince Al Waleed bin Talal (Saudi Arabia)	n.a.		79.0	79.0
1999	Manufacturing	Beni Suef Cement	Lafarge (France) + [Titan (Greece)] ^a	76%	5%	150.0	150.0
	n.i.	Delta for Sandy Bricks	Bellina (Greece)	90%	10%	n.i.	n.i.
	Manufacturing	Assiut Cement	Cemex (Mexico)	77%	10%	414.5	414.5
	„	Alexandria Portland Cement	Blue Circle (U.K.)	90%	10%	178.0	178.0
	Banking	Cairo Barclays Bank ^a	Barclays Bank (U.K.)	11%	n.a.	4.0	4.0
2000	Manufacturing	Beni Suef Cement ^d	Lafarge (France)	19%	0%	n.i.	n.i.
	„	Amriah Cement	Simpor (Portugal)	29%	0%	125.0	n.a.

Source: Data compiled from PEO (until 31/3/2000) and IFC privatisation database.

Notes: a = only reported in IFC database.

b = conflict between IFC and PEO. IFC report it as local investment in 1997.

c = The San Stefano deal faced a lot of troubles and was blocked many times. The sale was finalised in 1998.

d = Beni Suef Cement Co. was sold over two years; 1999 and 2000. Therefore, it is counted as one transaction.

n.a. = not available

n.i. = not included in the IFC database

Table 6: Selected Major Privatisations in Argentina (1989-2000)

Company/ Sector	Structure/units	Year	Percentage and Method	Proceeds (\$ bil.)		FX in \$ Bil.	Buyers
				Cash	Debt		
ENTel	Telecom Argentina, S.A. (Northern Area)	1990	60% - competitive bidding	0.1	2.3	1.80	STET/ France Consortium
		1992	30% - IPO	1.2	-	-	
	Telefónica Argentina, S.A. (Southern Area)	1990	60% - competitive bidding	0.114	2.7	2.03	Telefónica Español Consortium
		1991	30% - IPO	0.830	-	0.364	
AA		1989-1992	57% - Competitive bidding	0.260	1.61	1.30	Iberia Airline Consortium
Petroleum	YPF's drilling areas and distillation facilities	1990 – 1999	Various	21.563	-	18.75	Various foreign and local buyers
Electricity / Power Utilities	SEGBA for Greater Buenos Aires and Agua y Energía. Restructured into new business units covering, power plants, distribution and transmission.	1992 – 1998	Various	3.295	1.932	3.649	Various foreign and local buyers
Natural Gas	Restructured into 2 regional gas transportation and 8 regional distribution companies.	1992, 1994, 1998	Various	1.031	1.541	1.430	Various foreign and local buyers
Waterworks	Obras Sanitarias de la Nación	1992	30 year concession	-	-	-	Foreign and local investors
	Obras Sanitarias Mendoza	1998	95-year concession (70%)	0.133	-	0.133	French/American/Italian Consortium
	Aguas del Gran Buenos Aires, S.A.	2000	Concession (BOT)	0.120	-	n.a.	n.a.
Banks/Finance	6 banks/ financial entities were privatised between 1992 – 1999.	1992-1999	Various	0.951	-	0.58	Foreign and local investors.

Source: World Bank privatisation database for data until 1999 and IFC privatisation database for 2000 data. World Bank (1993), Gerchunoff and Coloma (1993), and Herteneck and McMahon (1996) for information about the restructured units (i.e. column 2).

Full List of companies included in the Argentinean privatisation programme:¹²²

- 1- Telecommunication: 'Empresa Nacional de la Telecomunicaciones' (ENTel); the national telecommunication company.
- 2- Airline: 'Aerolíneas Argentinas' (AA); The national Argentine airline company
- 3- Petroleum: sale of some share of the petroleum company (YPF).
- 4- Natural gas: 'Gas del Estado' (GdE).
- 5- Waterworks: 'Obras Sanitarias de la Nación' (OSN); The Greater Buenos Aires Water supply and Sewerage company
- 6- Electricity: 'Servicios Eléctricos del Gran Buenos Aires' SEGBA; The Electricity company serving Greater Buenos Aires area, 'Agua y Energía Eléctrica' (AyE); the electricity company serving the rest of the country, and Hidronor; the company that operates several hydro-generation stations.
- 7- Railroads and the Buenos Aires subway: 'Ferrocarriles Argentinos' (FA).
- 8- National highways.
- 9- Shipping, ports and grain handling.
- 10- Money printing.
- 11- Mail services: 'Empresa Nacional de Correos y Telégrafos' (ENCOTel).
- 12- A savings and insurance company: 'Caja Nacional de Ahorro y Seguro' (CNAS).
- 13- A hotel.
- 14- A race track.
- 15- Two television stations.
- 16- Petrochemical plants.
- 17- Steel manufacturing.
- 18- Military and defence-related industries (e.g. assembly of airplanes).
- 19- The sale of surplus public land and buildings
- 20- The closure of bankrupted or uneconomic SOEs (such as the National Development Bank, and an iron mining plant in the south of the country).

There have been also some privatisations at the provincial and municipal levels. Examples of these privatisations include provincial banks¹²³, major winery, refuse collection, casinos, bus stations and bus lines, city zoos ... etc.¹²⁴

¹²² The World Bank (1993), pp.2-3, and Alexander and Corti (1993), p.3

¹²³ For details on Provincial Banks privatisations, see Clarke and Cull (1998a, 1998b, and 1999)

¹²⁴ Harteneck and McMahon (1996), p. 76.

Table 7: Private Investment Laws in Egypt between 1974 – 2000^a

	Law 43 of 1974		Law 159 of 1981		Law 230 of 1989		Law 8 of 1997	
	Provisions	Restrictions	Provisions	Restrictions	Provisions	Restrictions	Provisions	Restrictions
Coverage	Manufacturing & Mining; Tourism; Land reclamation; Agriculture & Livestock production; Building materials; housing; real estate development.	FI in Banking and Insurance is limited to operations dealing in foreign currencies only.	same	GOFI may deny investments in activities where existing production is judged to be sufficient (usually activities where SOEs are heavily involved)			16 investment activities ^b are guaranteed to receive automatic approval. The Cabinet of Ministers is free to add other activities to this list.	Prior approval is required for investments related to: Military production and tobacco, or taking place in Sinai. Other regulations organise investments in the petroleum and insurance sectors, and BOT arrangements for highways and airports. ^c
Foreign Ownership	Max. 51% foreign equity.		51% foreign, can be extended to 100% if there is lack of Egyptian subscription within 1 month of the start of the project.		100%		100%	
Capital Repatriation	Allowed; given the approval of the Investment Authority.	Not before 5 years of the commencement of the project, and paid in 5 instalments.		Restriction on amount of capital repatriated.	Allowed subject to GAFI approval		No restrictions.	
Foreign ownership of Land/property		NO	Possible ownership of property	No foreign ownership of land.	Yes		Yes for both property and land. ^d	

	Law 43 of 1974		Law 159 of 1981		Law 230 of 1989		Law 8 of 1997	
	Provisions	Restrictions	Provisions	Restrictions	Provisions	Restrictions	Provisions	Restrictions
Labour				Egyptians must constitute 90% of workers, and the majority of top management; Wages of Egyptian workers are not to be less than 7% of total wages paid by the company to its overall labour force; 10% of profit to be distributed to workers.		At least 10% of profits are to be allocated for workers.	No restrictions. Distribution of profits to workers is left to the discretion of the company.	Labour laws are still relatively inflexible, especially regarding firing employees.
Tax Incentives	Tax holidays for 5 years; reduction of tax on capital and machinery imports.				More tax incentives to projects in new communities, tax holidays up to 10 years. Projects in free zone areas are exempted inland tax laws.		More tax holidays and incentives; most notably: tax holidays of 10 years for projects in new industrialised areas and new communities; and 20 years for projects located outside the Old Valley. Imported machinery required for the project is subject to unified 5% tax of the value of the imported machinery.	
Trade		Import/Export						

	Law 43 of 1974		Law 159 of 1981		Law 230 of 1989		Law 8 of 1997	
	Provisions	Restrictions	Provisions	Restrictions	Provisions	Restrictions	Provisions	Restrictions
		licensing required.						
Others				Possible Price and profit controls			No control on pricing or profit policies.	
Implementing Body			GOFI	Bureaucratic process of approval and registration.			GAFI; registration is within one week.	

Notes:

a: Information compiled from UNCTAD (1999a); Obeid (2002); Ott (1991); Sherif and Soos (1992); and Pripstein Posusney (1992).

b: The 16 activities are: Land reclamation; fishing, poultry and animal production; industry and mining; tourism; maritime transportation; refrigerated transportation and related services, air transportation and related services; housing; real estate development; oil production and related services; hospitals and medical centres; Infrastructure: water pumping stations, electricity, roads and communication; venture capital; computer software production; projects financed by the Social Fund for Development; leasing; risk capital and guarantees for subscription in securities; petroleum refining; and cinema production. (UNCTAD, 1999a, p. 20)

c: Foreign investment in the petroleum sector is governed by concession agreements between the investors and the Egyptian General Petroleum Corporation (EGPC). Foreign investment in the local insurance market is regulated by Law 91 of 1995. Build-Operate-Transfer projects for highways and airports are regulated by law 229 of 1996 and law 3 of 1997.

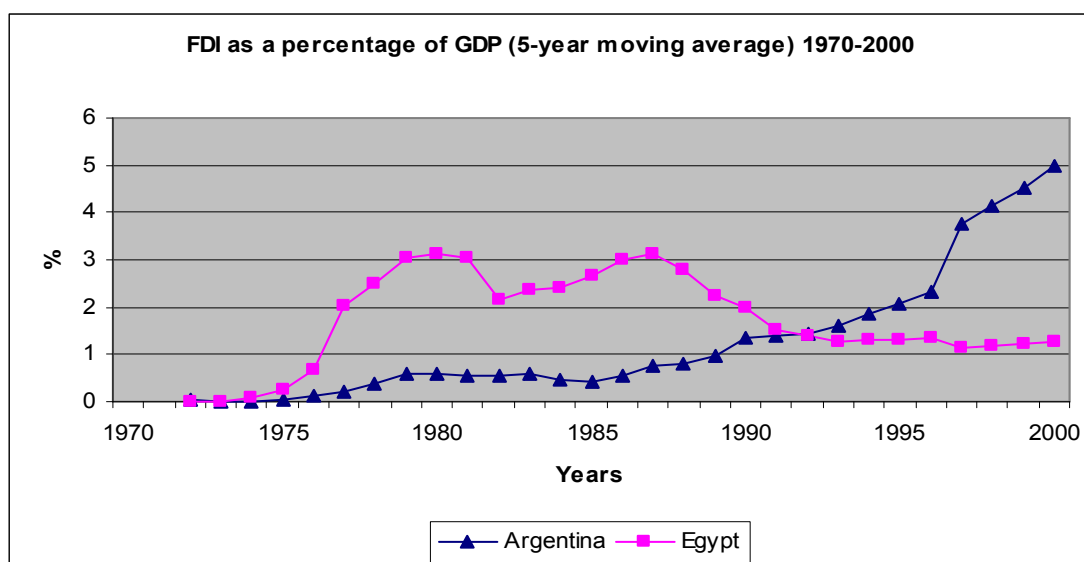
d: GOE does not allow industrial projects to be established on agricultural land.

Table 8: Corruption Perception Index for Egypt and Argentina

Year	Egypt		Argentina	
	Score	Rank	Score	Rank
1980 – 1985	1.12	n.a.	4.94	n.a.
1988 – 1992	1.75	n.a.	5.91	n.a.
1995	n.a.	n.a.	5.24	24 out of 41
1996	2.84	41 out of 54	3.41	35 out of 54
1997	n.a.	n.a.	2.81	42 out of 52
1998	2.90	66 out of 85	3.00	61 out of 85
1999	3.30	63 out of 99	3.00	71 out of 99
2000	3.10	63 out of 90	3.50	52 out of 90
2001	3.60	54 out of 91	3.50	57 out of 91
2002	3.40	62 out of 102	2.80	70 out of 102

Source: Data for 1980/85 and 1988/92 are from Universität Göttingen website (www.gwdg.de/~uwwv/histor.htm), and data for 1995 and 1996 are from Transparency International (TI) website (www.transparency.org), accessed on 13/11/02. The remaining data are from Transparency International website, accessed on 28/7/06.

Figure A1: Share of FDI in GDP (1970-2000) in Argentina and Egypt



Source: Calculated from the WDI (2002)

Table 9: Comparison between the Argentine and Egyptian cases of privatisation and FDI policies

Criteria	Argentina	Egypt
<u>Public Sector (PS):</u>		
Duration of dominance:	Just over 40 years before privatisation took place.	30 years before privatisation took place.
Share of PS in GDP:	7%	EAs (20%), PEs (10%)
Financial deficit	In 1989, 5.2% of GDP ^a (for the largest 13 SOEs)	In 1983, 8.4% of GDP
External financing	In 1988, \$ 11 billion in external debt	Over 1975-1989, USAID gave \$14.98 billion to GOE, 95% of it went to the government, out of which 8% (or \$1.2 billion) went to industrialised SOEs alone.
<u>Privatisation Programme</u>		
Macroeconomic conditions:	Hyperinflation (3000%), High external debt (85%)	Sever external debt (111.7%), High inflation (21.24%)
Starting Date:	1989	1991- First sale in 1993.
No. of SOEs	260 non financial, and 37 financial.	314 non financial.
Dominant sector:	Infrastructure (in terms of number), Energy (in terms of proceeds)	Manufacturing (in terms of both numbers and proceeds of privatisation)
Employment	In 1990, 310,000 employee (i.e. 2.5% of labour force or 1% of population) ^b	In 1991, 1.1 million employee (i.e. 6% of labour force or 2% ^c of population)
Public and Political Support:	Very strong	Relatively Weak
Institutional Framework	Centralised monitoring and decentralised implementation. The System of Trustees ensures commitment to privatisation.	Conflict of interests; members of the monitoring Ministerial Committee are also managers of the AFs.
Speed of Application	Rapid. Most of the SOEs were privatised (i.e. 2/3) within the first 5 years.	Slow. First two years were spent in preparing the SOEs. 2/3 of the SOEs were privatised within 10 years.
Total Proceeds till 2000:	\$ 44.581 billion	\$ 4.481 billion
<u>FDI Participation in Privatisation:</u>		
Legal framework:	The privatisation legal framework adopted the US/UK legal model, which offered enough guarantees to foreign	Privatisation legal framework is not clear on which investment law will be applied on a privatised company

Criteria	Argentina	Egypt
Size:	investors. Large. By 2000, total FDI was \$27.887 billion (i.e. 63% of privatisation proceeds).	with majority foreign ownership. Plus dispute settlement has been often highlighted as one of the obstacles to FDI in Egypt. Small By 2000, total FDI was \$1.090 billion (i.e. 24% of privatisation proceeds).
<u>Foreign Direct Investment:</u> Legal Framework:	Foreign Investment Law in 1991. Removed all restrictions on FDI, no prior permission is required, registration is optional, 100% ownership allowed except in the media and defence sectors.	Multiple laws. Two main active laws that cover the majority of sectors: Law 159 of 1981, Law 8 of 1997. The latter offers more incentives and liberalisation. Specific sectors such as Petroleum, Insurance, and airports are regulated by other investment laws.
Monitoring/ implementing bodies:	The National Registry of Foreign Investment. (Registration is optional)	GOFI for companies under law 159 of 1981, and GAFI for companies under law 8 of 1997.
Rank of host country among developing countries:^d	8 (during the 1970s and 1980s) then 4 (during the 1990s)	6 (during 1970s and 1980s) then 22 (during 1990s).
Sectoral Distribution:	FDI is concentrated more in public utilities/ Services (37%), followed by manufacturing (31%) and Petroleum (14%)	FDI is concentrated in Manufacturing (33%), followed by free zones (19%), financial sector (18%), and tourism (17%). The services sector accounts only for 3%
Sources of FDI:	In the 1990s, USA is the major source of FDI (36%), followed by Europe (23%) and neighbouring countries (15%).	Saudi Arabia (15.5%), followed by UK (11.2%) and USA (6.9%)
Potentiality and Performance:^e	Above-potential (1988-1990), then Front-Runner (1998-2000)	Above-Potential (1988-1990), then Below-potential (1998-2000)

Source: compiled by the researcher.

Notes:

a: Calculated by the researcher: Deficit/GDP = 4 billion/ 76.6 billion, where GDP is in current US\$ and obtained from WDI (2002), and the deficit for the largest 13 enterprise is from Saba and Manzetti (1997), p. 355 and also in Pastor Jr. and Wise (1999), p. 487.

b: percentages are calculated by the researcher based on 1990 total labour force of 12.20 million and total population of 32.53 million, obtained from WDI (2002).

c: percentage is calculated by the researcher based on 1991 total population of 53.62 million, obtained from WDI (2002).

d: World Investment Report (various issues).

e: WIR (2002).